



# CODE OF ORDINANCES OF THE TOWN OF BURKITTSVILLE

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## Article I. Public Nuisance, Morals and Conduct

### Section 1.01 Disturbance of the Public Peace

a. It shall be unlawful for any person to willfully obstruct or hinder the free passage of persons passing along or by any public street, sidewalk or highway within the corporate limits of the Town of Burkittsville or to willfully disturb any neighborhood within the corporate limits of the Town of Burkittsville by loud and unseemly noises, or to profanely curse and swear or use obscene language upon or near any such street, sidewalk, highway or to obstruct or hinder the free passage of persons upon any public street, sidewalk or highway within the Town limits by catching hold of and soliciting a person or persons against the will of such person or persons.

b. It shall be unlawful to congregate or assemble together on the streets and alleys and upon the sidewalks and pavements in the limits of Burkittsville, Maryland, to the obstruction thereof. And it shall be the duty of the law enforcement officer of the Town to order all such persons congregated or assembled together, to disperse. And upon failure to comply with such order, shall, upon conviction thereof, be fined as hereinafter provided.

### Section 1.02 Drunkenness and Disorderly Conduct

It shall be unlawful for any person to be drunk or act in a disorderly manner to the disturbance of the public peace, upon any public street, sidewalk, highway, parking lot, private or public, or at any place of public worship or public resort or amusement within the corporate limits of the Town of Burkittsville.

### Section 1.03 Disorderly Conduct on Private Property

It shall be unlawful for any person to enter uninvited upon the lands or premises of any other person, firm or corporation, whether such person be the owner or lessee of said land or premises, and to willfully act in a disorderly manner by making loud and unseemly noises or by profanely cursing or swearing or using vulgar or obscene language or by being under the influence of intoxicating liquors or narcotics while thereon.

### Section 1.04 Indecent Conduct

It shall be unlawful for any person to indecently, improperly or offensively use the street, highway, sidewalks, alleys or parking lots within the corporate limits of the Town of Burkittsville as toilet facilities.

### Section 1.05 Assault

Whoever unlawfully assaults, or threatens another in a menacing manner, shall upon conviction be subject to penalties as hereinafter provided.



## Section 1.06 Carriers and Innkeepers

Any person entrusted with anything of value, to be carried for hire or being an innkeeper and entrusted by his guest with anything of value for safe keeping, who fraudulently converts the same to his own use, shall upon conviction be subject to penalties hereinafter provided.

## Section 1.07 Concealed Weapons

a. Any person who shall within the Town limits have concealed about his person, any deadly or dangerous weapon, or who shall carry openly any such weapon, with intent to unlawfully use the same, shall upon conviction be subject to the penalties as hereinafter provided.

b. Provided, that the officers, noncommissioned officers, and privates of the United States Army, Navy or Marines Corps, or any regularly organized Military Company, Police Officers, officers guarding prisoners, officials of the United States or any State or the District of Columbia engaged in the execution of the laws for the protection of persons or property, when any of such persons are on duty shall not be liable for carrying necessary arms for use in performance of their duty. Provided further, that nothing contained in the Section shall be so construed as to prevent any person from keeping or carrying about his place of business, dwelling house, or premises any such dangerous or deadly weapon, or from carrying the same from place of purchase to his dwelling house or place of business or from his dwelling house or place of business to any place where repairing is done to have the same repaired and back again.

c. It shall be unlawful for any person to discharge and shoot off any gun, pistol, or other firearms within the Town limits. Any person violating the provisions of this Section shall upon conviction be subject to the penalties as hereinafter provided.

d. Provided, however, that any person or persons specifically authorized by the Mayor and Council to discharge firearms within the Town limits to protect the health and welfare of the population are specifically exempt from the provisions of this Section.

## Section 1.08 Unlawful Entry on Private Property

No person without lawful authority, shall enter, or attempt to enter a private dwelling against the will of the lawful occupant thereof, or being therein without lawful authority to remain, shall refuse to quit the same on the demand of the lawful occupant thereof.

## Section 1.09 Gaming

No person shall within the Town limits set up or keep any gaming table, or any house for the purpose of gaming, or any kind of gaming table or gambling device adopted, devised and designated for the

purpose of playing any game of chance for money or property, or shall induce, entice and permit any person to bet or play at or upon any such gaming table device, shall upon conviction be subject to the penalties provided hereafter, and in addition if such person has a license for the transaction of business at the premises in or upon which the offense shall have been committed, it may be revoked on order of the Mayor and Council.

#### Section 1.10 Pool Selling, etc.

It shall be unlawful for any person or associates to bet, gamble or make books or pools on the result of any trotting or running race of horses, or boat race of any kind, or on an election or any contest of any kind, or game of baseball. Any person or association violating the provisions of this Section shall upon conviction be subject to the penalties as hereafter provided.

#### Section 1.11 House of Ill-Fame

It shall be unlawful for any person or persons within the Town limits to keep or maintain a house of ill-fame or assignation, reported to for the purpose of prostitution or lewdness and it shall be unlawful for any person to visit such house of ill-fame for immoral purposes.

#### Section 1.12 Petty Larceny

No person shall feloniously take and carry away any property of value of twenty-five (\$25.00) Dollars or less including things savoring of the realty. In all convictions, the trial justice may, in his sound discretion order restitution to be made of the value of the money or property shown to have been stolen by the defendant and made way with or otherwise disposed of and not recovered.

#### Section 1.13 Trash Receptacles

It shall be unlawful for any person or persons to take and carry away, or willfully break, injure or destroy any box or other receptacle maintained upon any street or alley in the Town for the reception of paper, filth or waste matter, however, these receptacles shall not be used for the reception of waste material from commercial establishments or residential homes.

#### Section 1.14 Defacing Trees and Buildings

It shall be unlawful for any person or persons to, at any time or in any manner, deface, or injure or remove any tree, fence, gate, railing, porch, building, or other structure upon public land, by writing, cutting, or in any other manner within the corporate limits of the Town of Burkittsville.

#### Section 1.15 Defacing or Injuring Trees

It shall be unlawful for any person or persons to purposely injure or deface, by cutting, breaking or otherwise, any tree or trees now planted or hereafter to be planted along the sidewalks or within the public right-of-ways within the corporate limits of the Town of Burkittsville.

#### Section 1.16 Wheelbarrow, etc., on Sidewalks

It shall be unlawful for any person or persons to ride, drive, wheel, push or in any manner propel or permit to remain on the sidewalks of the Town of Burkittsville, any wheelbarrow, handcart, bicycle, or any other such article, or any sled or sleigh in such a manner as to impede pedestrian traffic, exception however, baby carriages and grocery store carts.

#### Section 1.17 Obstructing Pavements

It shall be unlawful for any storekeeper or other person to encumber, obstruct or in any manner interfere with the free and uninterrupted use of the public streets and sidewalks of the Town of Burkittsville leaving any goods, wares, merchandise or other articles or things thereon, or by the use of a commercial lift except for loading or during the erection or repair of a building.

#### Section 1.18 Dirt and Trash on Highways

a. No person engaged in the excavating, repairs to structures or grounds, or construction or having charge or control of excavation, repairs to structures or grounds, or construction, or who may be engaged in or have charge or control of conveying material to or from excavations, repairs to structures or grounds, or construction, shall deposit, or permit to be deposited, in any manner, upon the surface of any street, alley, avenue, highway, footway, sidewalk, parking or other public space within the corporate limits of the Town of Burkittsville either by placing, spilling, dropping, or tracking from wheels of vehicles, or from the feet of animals, or otherwise, any earth, clay, mud, sand, gravel, or other material. If any such deposit occurs, every person whose duty it is under this Section to prevent such deposit shall promptly remove the same. All macadamized or broken stone roadways adjacent to excavations nor traversed by vehicles either in the process of conveying material from an excavation or in returning from the place of deposit to place to place of excavation shall be covered with planking so far as may be

required to prevent any mud, earth, clay or other material from the excavation of from the place of deposit from reaching the surface of such roadway.

b. No one being the owner, driver, manager, or conductor of any cart or other vehicle shall carry or convey, or cause to be carried or conveyed in such vehicle any coal, earth, sand, gravel, broken stone, dirt, ashes, paper, and other rubbish, or any loose fluid or offensive articles or matter, or any articles whatsoever within the corporate limits of said Town of Burkittsville so that the same shall or may be scattered, dropped, let fall, blown or spilled therefrom; and all vehicles conveying combustible refuse or foul, dusty, or offensive matter of any sort shall have tight bodies and be closely and securely covered. All vehicles conveying wastepaper and wastepaper products, baled, sacked, or otherwise, shall be closely and securely covered.

c. Owners of lots abutting upon streets, avenues, or alleys, or upon public parking or other public space, in the Town of Burkittsville and which are above grade, shall protect such lots so as to prevent dirt, sand, or gravel, or any bushes, trees, or like thing from falling or being washed upon the sidewalks, streets, alleyways or other public space adjacent to the same.

#### Section 1.19 Throwing Glass, Refuse, etc. Upon the Streets

It shall be unlawful for any person to cast or throw into any street, alley, avenue, highway, or any place within the jurisdiction of the Town authorities, any glass, bottles, glassware, crockery, porcelain, or other similar substances, or pieces thereof, or any pieces of iron, hardware or sharp metal, nails, tacks, or other articles, or any wastepaper, trash, rubbish, garbage, or refuse of any kind.

#### Section 1.20 Casting Dead Animals in Road

No person shall cast any dead animal into any street, avenue, or alley within the limits of the Town.

#### Section 1.21 Cruelty to Animals

No person shall override, over-drive, overload, torture, ill-treat or cruelly or unreasonably beat, main, poison, mutilate, or kill any animal whether belonging to himself or another.

#### Section 1.22 Drinking in Public

No person shall take a drink of intoxicating beverage or offer a drink of such to another whether accepted or not, upon any street, avenue, alley, or in any public place, except on premises for which an "on sale" license for the sale of alcoholic beverages have been issued.

### Section 1.23 Disturbing Religious Worship

No person shall willfully interrupt or disturb any assembly met for the worship of Gov, or being intoxicated, disturb the same.

### Section 1.24 Vagrancy

Vagrancy is unlawful within the Town limits and all persons who by the Common Law or by the Laws of the State of Maryland are vagrants are hereby declared to be vagrants for the purposes of this sections.

### Section 1.25 Arrest Without Warrant

When in the judgement of the Council or any police officer of the Town, the delay necessary to the procurement of a warrant for the arrest of any person violating any provision of these Ordinances or of any Section thereof, would be dangerous to the peace and good order of the Town, such person may be arrested without such arrant and committed to the County Jail until such a warrant is obtained.

### Section 1.26 Nuisances

- a. No mechanical device, machine, or apparatus or instrument for intensification of the human voice or of any sound or noise, nor any bell, horn, gong, whistle, drum, or other noise making article, instrument or device shall be struck, sounded, used, operated or caused to be used or operated on or in any street, avenue, alley, highway, footway, sidewalk, parking or other public space, nor shall loud noises be made by any such article, instrument, or device in or about barrooms, hotels, or other public places in the Town of Burkittsville.
- b. No person within the Town limits shall make any noise or outcry, use or sound operate, or cause the same to be sounded or operated, any of the things or devices defined herein, hereof, for the purpose of advertising wares, or inviting the patronage or attention of any person for or to any business or any vehicle or rides whatsoever.
- c. No musical instrument of any sort shall be played or any mechanical device, machine, or apparatus or instrument for the intensification of the human voice or any music, sound, or noises shall

be played, used or operated by any person, corporation, company, partnership, or association engaging in any business within the Town limits.

#### Section 1.27 Defacing Municipal Signs

It shall be unlawful for any person or persons to purposely tear down or in any manner deface any sign, or posters which have been posted by authority of the Council.

#### Section 1.28 Lights and Traffic Signals

It shall be unlawful for any person or persons to willfully break any streetlights within the corporate limits of the Town of Burkittsville or cut or break any streetlight posts, parking signs, traffic signs or traffic signal device in said Town.

#### Section 1.29 Abandoned Ice Boxes

It shall be unlawful for any person, firm or corporation to abandon, discard, store or keep in any place accessible to children, or to permit, as the owner, lessee, or manager, to remain on the premises under his control, a refrigerator, ice box, freezer or any other similar container of any kind which has an air-tight door, or lock which may not be released for opening from the inside of said refrigerator, icebox, freezer cabinet or other container and which is not longer used for refrigeration purposes, without the attached doors, hinges, lids or latches being first removed.

#### Section 1.30 Penalty Provisions

Any person violating any of the provisions of this ordinance, or any lawful order issued by the Police in pursuance thereof, or committing any of the acts declared to be unlawful by this ordinance, shall be guilty of a misdemeanor and upon conviction thereof, shall be subject to a fine not to exceed one hundred (\$100.00) dollars, or may be confined to the County Jail for a period not to exceed Thirty Days and where the offense is of a continuing nature each day's violation shall be deemed a separate offense.

## Article II. Traffic, Vehicles and Transportation

## Section 2.01 Scope

The provisions of this chapter are intended to be in addition to and supplementary to the provisions of Article 66-1/2 of the Annotated Code of Maryland, 1957 edition, as amended, and in accordance with authority specifically granted by said Article.

## Section 2.02 Traffic and Parking Control Signs

Whenever, in the judgement of the Mayor and Council of Burkittsville it is necessary for the safety or control of vehicular or pedestrian traffic or for the regulation of the use of parking areas, the Mayor and Council of Burkittsville may erect or cause to be erected "STOP", "NO PARKING", "SPEED LIMIT", "ONE WAY", and other traffic control and parking restriction signs designed to control, regulate, warn nor guide traffic or limit parking on public streets, highways, or other areas in the Town of Burkittsville, and it shall be the duty of all persons to observe such signs, and person failing to observe any such sign, shall, upon conviction thereof, be guilty of a misdemeanor. Nothing herein contained shall be deemed to constitute a repeal of the authority here before granted by the Mayor and Council of Burkittsville for the erection of traffic control and parking restriction signs and a failure to observe any such signs heretofore erected shall be subject to the same penalties as set forth hereafter.

## Section 2.03 Stopping, Standing or Parking Prohibited in Specified Places

a. No person shall stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or traffic control device in any of the following places:

- 1) On sidewalks;
- 2) In front of a public driveway, or alley, or in front of a private driveway, except with the consent of the owner or occupant of the premises;
- 3) Within an intersection;
- 4) Within 14 feet of a fire hydrant;
- 5) On na cross walk, or within twenty (20) feet of a cross walk at an intersection, except for the purpose of receiving or discharging passengers or merchandise;
- 6) Within twenty-five (24) feet of any beacon, stop sign, or traffic control signal located at the side of a roadway;
- 7) Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, except for the period necessary to take on or discharge opposite, freight or merchandise;

- 8) Within twenty (20) feet of the driveway entrance to any fire department station within seventy-five (75) feet of said entrance when sign-posted;
  - 9) Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic;
  - 10) On the roadway side of any vehicle stopped or parked at the edge or curb of a street, except for the purpose of receiving or discharging passengers or merchandise;
  - 11) At any place where an official sign or painted curb of Frederick County, the State of Maryland, or the Mayor and Council of Burkittsville prohibits stopping, parking or standing and it is hereby specifically provided that where ever a curb is painted red or yellow that there shall be no parking, standing or stopping parallel to said painted curb;
  - 12) On curves, at the brow of a hill, where the State Roads Commission, or the Mayor and Council of Burkittsville has painted white lines on the surface of the roads;
  - 13) On any public street or alley within the corporate limits of the Town so as to block, impede or hinder thereon, the orderly flow of traffic.
- b. No person shall stop, stand or park a vehicle designed or used for carrying freight or merchandise, in front of, alongside of, or in the rear of any private dwelling, except when actually unloading merchandise, or when the operator or owner of such vehicle is actually engaged in rendering a service for to such premises.
  - c. It shall be unlawful for any person within the corporate limits of the Town of Burkittsville to store, to have parked or to have placed temporarily or permanently on any property, street or thoroughfare any movable commercial equipment, vehicle and/or trailer directly engaged in operation or use for which it is intended. This section shall apply to any equipment or vehicle that would be a public nuisance, detrimental to the health and welfare of the people and/or create an unsightly view thereby decreasing the value of any nearby property or properties.
  - d. Any person violating this section shall, upon conviction, pay a fine of not less than \$10.00 nor more than \$20.00 and upon failure or refusal of the party convicted thereof, to pay such fine and costs, shall be committed to Frederick County Jail for a period not exceeding thirty days.

#### Section 2.04 Notice of Violation; Payment of Penalty; Issuance of Summons

Every duly authorized police officer of the Town of Burkittsville shall attach to any vehicle found not be in violation of Section 2 and 3, of this Chapter a notice to the owner thereof that such vehicle has been in violation of the provisions of this Chapter and instructing such owner to report to the Town Clerk – Treasurer during regular office hours thereof in regard to such violation. Each such owner may, within



forty-eight (48) hours of the time when such notice was attached to such vehicle, exclusive of Sundays and legal holidays, pay at the Offices of the Town Clerk – Treasurer to the Clerk in charge thereof, as a penalty and in full satisfaction of such violation the sum to Two Dollars (\$2.00); the failure to such owner to make such a payment upon such conditions shall render the owner subject to the penalty hereinafter imposed. Any duly authorized police officer of the Town of Burkittsville shall take said notice to a duly authorized and appointed Trial Magistrate for Frederick County for the purpose of having a warrant for the arrest of such owner issued and for the setting of an amount of collateral to be posted. In the event such owner does not pay said collateral he shall be subject to the penalties of fine or imprisonment, or both, as provided in this Chapter with respect to the provision which has been violated.

### Section 2.05    Parking Restrictions

It shall be unlawful to park, store, or leave any vehicle of any kind, whether attended or not, or for the owner of any vehicle of any kind to allow, permit, or suffer the same to be parked, stored, or left, whether attended or not, up[on any public or private property in the Town of Burkittsville other than public highways, without the consent of the owner of such public or private property, and the Mayor and Council of Burkittsville and its designated agent or agents are authorized to remove and impound any vehicle parked, stored, or left in violation of this Section and to keep the same impounded until the owner thereof, or other duly authorized person, shall deposit collateral in the amount and in the manner hereinafter provided for in the case of violations of this Ordinance and shall have paid to the Town of Burkittsville in impounding said vehicle. In any prosecution under this Section, proof that a vehicle was parked, stored, or left on public or private property shall be prima facie evidence that the vehicle was so parked, stored, or left without the consent of the owner of such public or private property.

### Section 2.06    Unregistered Vehicles; Parking Prohibited; Vehicle Impounded

It shall be unlawful to park, store, or leave any vehicle, the certificate of title, registration card, or registration plate which has expired, been revoked, cancelled or suspended, or for the owner of any such vehicle to allow, permit, or suffer the same to be parked, stored, or left, whether attended or not, upon any public street, highway, alley or parking lot within the corporate limits of the Town of Burkittsville for a period longer than twenty-four (24) hours. The Police are authorized to remove and impound any such vehicle parked, stored or left in violation of this and impound any such vehicle parked, stored or left in violation of this Section and to keep the impounded until the owner thereof, or other duly authorized person, shall deposit collateral in the amount and in the manner as hereinafter provided for violation of this Ordinance, and shall pay the Town of Burkittsville a sum equal to the towage and any and all reasonable storage charges incurred by the Town of Burkittsville in impounding said vehicle.

## Section 2.07 Park of Trailers Prohibited

- a. Whenever used in this Chapter, unless a different meaning shall appear from the context, the words AUTOMOBILE TRAILER, TRAILER COACH OR TRAILER means any vehicle or similar portable structure originally having no foundation other than wheels, jacks or skirtings and so designed and constructed as to permit occupancy for dwelling or sleeping purposes, or both.
- b. It shall be unlawful, within the Town Limits of the Town of Burkittsville, for any person to park any trailer or trailers, on any tract of land owned or leased by any person, whether occupied or unoccupied, whether or not the same may have been placed on a permanent or semi-permanent foundation, except as provided in Section 7c.
- c. The provisions of this Chapter shall not apply when the term of the stay of said trailer or trailers does not exceed 24 hours, except that occupant or occupants of said trailer or trailers shall comply with any and all health regulations that may be enforced by the Town Health Authorities.
- d. The violation of any of the provisions of this Section shall be punished by a fine not to exceed twenty-five (\$25.00) dollars, or by imprisonment in the Frederick County Jail for not more than thirty (30) days, or both fine and imprisonment, with the discretion of the court. Each day any violation of any of the provisions of this Section shall continue, shall constitute a separate offense hereunder.

## Section 2.08 Regulation Of Park Lots

- a. It shall be unlawful for any person or persons to construct a public or private parking lot within the corporate limits of the Town of Burkittsville unless a permit authorizing the construction of same has been secured from the Town Clerk. The petitioner or petitioners will be required to make written application for this permit, including specifications of the project. The Town Council will consider applications with reference to the provisions as set forth in this Section and upon a favorable vote a permit will be granted.
- b. All parking lots must be located so as not to impede normal street traffic or to create a traffic hazard by any of its exits or entrances.
- c. Surfaces of parking lots shall be of crushed stone properly graded or of macadam or concrete.
- d. Parking lots must be constructed so as to provide proper drainage of any surface water that may collect thereon. Provision must be made to properly channel this surface water so that it does not in any way damage adjoining property or land.
- e. All exists and entrances to parking lots must be constructed of macadam or concrete for a distance of at least 20 feet from any existing curb and gutter lines and shall be made so as to meet existing street grade.

f. Curb and gutter sidewalks that are damaged or removed must be replaced or repaired to meet existing specification as set forth in Town ordinances. All expense in the repairing or replacement of said curb and gutter and sidewalk to be borne by the owner or owners of the parking lot.

g. Any person violating this Section shall, upon conviction, pay a fine of not less than \$10.00 nor more than \$20.00 and upon failure or refusal of the party convicted thereof, to pay such fine and costs, shall be committed to Frederick County Jail for a period not exceeding thirty (30) days.

## Section 2.09 Reckless Driving and Speed; Penalty

a. No individual shall operate a motor vehicle over any public highway or street within the Town Limits

- 1) recklessly, or
- 2) at a rate of speed greater than is reasonable and proper, having regard to the width of the public highway, the use thereof, and traffic thereon, or
- 3) so as to endanger any property or individual, or
- 4) so as unnecessarily or unreasonably to damage the public highway.

b. No motor vehicle, truck or tractor shall be operated upon any highway or street in the Town at a greater speed than twenty-five (25) miles per hour, except on such streets and highways as may be covered by regulations and the placing of signs.

c. No motor vehicle shall be operated on any street or highway in the Town with clutch disengaged or gear out of mesh except for the purpose of changing or shifting gears or stopping or while being towed.

d. No person shall operate over the streets of the Town of Burkittsville any vehicle, motor-driven or otherwise, equipped with spikes, cleats or other traction device calculated to inflict any undue damage or injury upon the surface of the streets of Burkittsville.

e. Any individual violating any provision of this Section where the offense constitutes reckless driving or a violation of the speed limits shall upon conviction for the first offense be fined not more than One Hundred (\$100.00) Dollars or in default thereof be imprisoned in the County Jail not more than twenty-five days. Upon the conviction for the second or subsequent offense, such individual shall be fined not less than Twenty-Five (\$25.00) Dollars nor more than Three Hundred (\$300.00) Dollars or in default thereof shall be imprisoned in the County Jail for not more than thirty days.

f. Any individual violating any provision of this Section except where the offense constitutes reckless driving or a violation of the speed limit, shall upon conviction be fined not more than Twenty-Five (\$25.00) Dollars, or in default thereof be imprisoned in the County Jail not exceeding five days.

## Section 2.10 Fleeing from the Scene of Accident; Driving Under Influence of Liquor or Drugs

- a. No individual while operating a motor vehicle within the Limits, knowing that such motor vehicle has struck any individual or any vehicle, or that such vehicle has been struck by any other vehicles, shall leave the place where the collision or injury occurred without stopping and giving his name, place of residence, including street and number of registration and operator's permit numbers to the individual so struck or other necessary information to the owner or operator of the other vehicle if such owner or operator is present, or if such owner or operator is not present then to bystanders. Any operator whose vehicle strikes or causes personal injury to any individual and who fails to conform to the requirements of the subdivision shall, upon conviction of the first offense be fined not more than One Hundred (\$100.00) Dollars or in default be imprisoned in the County Jail not more than thirty days; and upon the conviction of a second or subsequent offense shall be fined not less than One Hundred (\$100.00) Dollars or in default be imprisoned in the County Jail not more than thirty days. And any operator whose vehicle strikes or causes damage to any other vehicle and who fails to conform to the requirements of this subdivision shall upon conviction of the first offense be fined not more than One Hundred (\$100.00) Dollars or in default thereof be imprisoned in the County Jail not more than thirty days; and for the second or any other subsequent offense be fined not more than Three Hundred (\$300.00) Dollars, in default thereof be imprisoned in the County Jail not more than sixty days.
- b. No individual shall, while under the influence of any intoxicating liquor or narcotic drug, operate any motor vehicle within the Town Limits. Any individual violating any provision of this subsection shall upon conviction for the first offense be fined not more than One Hundred (\$100.00) Dollars or in default thereof be imprisoned in the County Jail not more than thirty days.

## Section 2.11 Parking Restrictions

- a. All vehicles shall be driven and parked on the right-hand side of the street unless a street or avenue is designated by a sign to be for one-way traffic. At any time it shall become necessary the Mayor and Council may mark and designate areas which may become congested banning parking altogether if necessary. No automobile or other vehicle or obstruction of any type or description shall stop or park or be left or placed in any street alley, avenue, or highway in such manner as to hinder, delay or block traffic or passage, and the Mayor and Council are empowered to enforce this provision by impounding said vehicle or removing the obstruction of any type or description.
- b. The Mayor and Council shall designate from time to time such streets as shall contribute to the safe movement of traffic within the Town as Boulevards and may post intersecting streets with appropriate "Stop Signs" so placed as to be readily visible to the motoring public and all traffic entering Boulevards so designed shall come to a complete stop before so doing.
- c. Any person violating the provisions of this Section shall upon conviction be fined not more than Twenty-Five (\$25.00) Dollars or in default thereof be imprisoned in the County Jail not more than five days.

## Section 2.12 Removal of Trees, Bushes and Other Obstructions to Vision of Persons Traveling on Public Highways

- a. Whenever the Mayor and Council find there exists on any private property within the Town any trees, bushes, vines, weeds, undergrowth, loose earth or other obstructions, except buildings and similar structures affixed to the ground, and if they further find that the same do obstruct the vision of operators of vehicles traveling upon any public street, road or highway so as to constitute a traffic hazard, they shall immediately, upon finding such condition, serve upon the owner, agent, lessee or any other person having supervision over such property a written notice describing the premises whereon such obstruction exists, a statement of the particulars in which the vision of operators of vehicles is obstructed including the steps necessary to correct such conditions, and an order directing that such corrective steps be taken within a stated period of time.
- b. Any person who considers himself aggrieved by any order issued pursuant to the authority of this Section may, within ten (10) days of the receipt of such order petition the Mayor and Council in writing for a hearing thereon; within thirty (30) days from the receipt of such a petition the Mayor and Council shall hold such a hearing after which it may either affirm, modify or rescind the order. No official of the Town Government shall remove any obstruction or enforce any order issued hereunder until after such hearing by the Town has been held or until after the time to petition for such hearing has expired without such a petition having been filed.
- c. Upon the failure of any person not comply with the provisions of any order issued hereunder within the time specified therein, the Mayor and Council shall direct Town forces to enter upon the property whereon the obstruction is located and remove all or such parts of the obstruction as necessary to eliminate the traffic hazard.
- d. All orders and notices issued by the Mayor and Council or any town official pursuant to the authority of this Section shall be served on the person to whom they are directed either by registered mail or by personal delivery to such person. If such person is not known to reside and cannot be found, such service shall be made by publication of such order or notice once in a newspaper of general circulation in the Town, and by posting the same on the premises in a conspicuous manner. Service by publication and posting shall be deemed to be made on the day of publication or posting.

## Section 2.13 Penalties

Unless otherwise specifically provided in this Chapter, any person violating any of the provisions of this Chapter shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not to exceed One Hundred (\$100.00) Dollars, or may be confined to the County Jail for a period of not exceeding thirty (30) days, or until such fine and costs be paid.

## Section 2.14 Other Regulations

Except as herein otherwise provided, the Motor Vehicles Law of the State of Maryland, which are hereby declared and made a part of these Ordinances by reference, shall control and govern, and any person violating any of the provisions thereof, shall upon conviction, be subject to the penalties provided therein.

## Article III. Housing Code

### Section 3.01 Minimum Standards for Basic Equipment and Facilities

No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit for the purpose of living, sleeping, cooking, or eating therein, which does not comply with the following requires.

- 1) Every dwelling unit shall contain a kitchen sink in good working condition and properly connected to a water and sewer system approved by the Mayor and Council of Burkittsville.
- 2) Every dwelling unit (except as otherwise permitted under Subsection 4 of this Section) shall contain a room which affords privacy to a person within said room and which is equipped with a flush water closet and a lavatory basin in good working condition and properly connected to a water and sewer system approved by the Mayor and Council.
- 3) Every dwelling unit (except as otherwise permitted under Subsection 4 of this Section) shall contain, within a room which affords privacy to a person within said room, a bathtub or shower in good working condition and properly connect to a water and sewer system approved by the Mayor and Council.
- 4) The occupants of not more than two dwelling units may share a single flush water closet, a single lavatory basin, and a single bathtub or shower if:
  - a. Neither of the two dwelling units contains more than two rooms: provided that, for the purposes of this Subsection, kitchenette, or an efficiency kitchen with not more than 60 square feet or floor area shall not be counted as a room; and that
  - b. The habitable area of each such dwelling units shall equal not more than 250 square feet of floor area; and that
  - c. Such water closet, lavatory basin, and bathtub or shower shall be in good working condition and properly connected to a water and sewer system approved by the Mayor and Council.
- 5) Every kitchen sink, lavatory basin, and bathtub or shower required under the provisions of Subsections 1,2,3, and 4 of Section 1 of this Article shall be properly connected with both hot and cold water lines.
- 6) Every dwelling unit shall be supplied with adequate rubbish storage facilities, type and location of which are approved by the Mayor and Council.
- 7) Every dwelling unit shall have adequate garbage disposal facilities or garbage storage containers, type and location of which are approved by the Mayor and Council.
- 8) Every dwelling shall have supplied water-heating facilities which are properly installed, are maintained in safe and good working condition, are properly connected with the hot water lines required under the provisions of Subsection 5 and Section 1 of this Article and are capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub or shower.
- 9) Every dwelling unit shall have safe, unobstructed means of egress leading to safe and open space at ground level, as required by the laws of Burkittsville.

### Section 3.02 Minimum Standards for Light, Ventilation, and Heating

No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

- 1) Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be 10 percent of the floor area of such room. Whenever walls or other portions of structures face a window or any such room and sun light-obstruction structures are located less than 3 feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall, not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of such room, the total window area of such skylight shall equal at least 15 percent of the total floor area of such room.
- 2) Every habitable room shall have at least one window or skylight which can be easily opened, or such other device as well adequately ventilate the room.
- 3) Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms contained in Section 1 and 2, except that no window or skylight shall be required in adequately ventilated bathrooms and water closet compartments equipped with a ventilation system which is kept in continuous operation and approved by the Mayor and Council.
- 4) Where there is electric service available from power lines which are not more than 300 feet away from a dwelling, every habitable room of such dwelling shall contain at least two separate floor or wall-type electric convenience outlets, or one such convenience outlet and one supplied ceiling-type electric light fixture; and every water closet compartment, bathroom, laundry room, furnace room, and public hall shall contain at least one supplied ceiling or wall-type electric light fixture. Every such outlet and fixture shall be properly installed, shall be maintained in good and safe working condition, and shall be connected to the source of electric power in a safe manner.
- 5) Every dwelling shall have heating facilities which are properly installed, are maintained in safe and good working condition, and are capable of safely and adequately heating all habitable rooms, bathrooms, and water closet compartments in every dwelling unit located therein to a temperature of at least 70 Fahrenheit, at a distance of three feet above floor level, under ordinary minimum water conditions.
- 6) Every public hall and stairway in every multiple dwelling containing five or more dwelling units shall be adequately lighted at all times. Every public hall and stairway in structures devoted solely to dwelling occupancy and contain not more four dwelling units may be supplied with conveniently located light switches, controlling an adequate lighting system which may be turned on when needed, instead of full-time lighting.
- 7) During that portion of each year when the Council deems it necessary to protect against mosquitoes, flies, and other insects, every door opening directly from a dwelling unit to outdoor space shall have supplied screens and a self-closing device; and every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be supplied with screens: provided that such screen shall not be required during such period in rooms deemed by the Council to be located high enough in the upper stories of buildings as to be free from insects, and in rooms located



in the areas of the Town which are deemed by the Mayor and Council to have so few such insects as to render screens unnecessary.

8) Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be supplied with a screen or such other device as will effectively prevent their entrance.

### Section 3.03 General Requirements relating to the Safe and Sanitary Maintenance or Parts of Dwelling and Dwelling Units

No person shall occupy as owner-occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

- 1) Every foundation, floor, wall, ceiling and roof shall be reasonably weathertight, watertight and rodentproof; and shall be capable of affording privacy and shall be kept in good repair.
- 2) Every window, exterior door, and basement hatchway shall be reasonably weathertight, watertight and rodentproof; and shall be kept in sound working condition and good repair.
- 3) Every inside and outside stair, every porch, and every appurtenance thereto shall be so constructed as to be safe to use and capable of support in the load that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair.
- 4) Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good sanitary working condition, free from defects, leaks and obstructions.
- 5) Every water closet compartment floor surface and bathroom floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.
- 6) Every supplied facility, piece of equipment, or utility which is required under this Article shall be so constructed or installed that it will function safely and effectively, and shall be maintained in satisfactory working condition.
- 7) No owner, operator, or occupant shall cause any service, facility, equipment, or utility which is required under this Article to be removed from or shutoff from or discontinued for any occupied dwelling let or occupied by him, except for such temporary interruption as may be necessary while actual repairs or alternations are in process, or during temporary emergencies when discontinuance of service is approved by the Mayor and Council.
- 8) No owner shall occupy or let to any other occupant any vacant dwelling unit unless it is clean, sanitary, and fit for human occupancy.

### Section 3.04 Minimum Space, Use, and Location Requirements

No person shall occupy or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

- 1) Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor space for every additional occupant thereof, the floor space to be calculated on the basis of total habitable room area.
- 2) In every dwelling unit of two or more rooms, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet.
- 3) No dwelling or dwelling unit containing two or more sleeping rooms shall have such room arrangements that access to a bathroom or water closet compartment intended for use by occupants or more than one sleeping room can be had only by going through another sleeping room; nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room or a bathroom or water closet compartment.
- 4) At least one-half of the floor area of every habitable room shall have a ceiling height of at least 6'7" and the floor area of that part of any room where the ceiling height is less than 5 feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.
- 5) No cellar space shall be used as a habitable room or dwelling unit.
- 6) No basement space shall be used as habitable room or dwelling unit unless:
  - a. The floor and walls are impervious to leakage of underground and surface runoff water and are insulated against dampness;
  - b. The total of window area in each room is equal to at least the minimum window area sizes required in Section 2.
  - c. Such required minimum window area is located entirely above the grade of the ground adjoining such window area.

### Section 3.05 Responsibilities of Owners and Occupants

- 1) Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.
- 2) Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit, and premises thereof which said occupant occupies and controls.
- 3) Every occupant of a dwelling or dwelling unit shall dispose of all his or her rubbish in a clean and sanitary manner by placing it in the rubbish containers required by Section 1 of this Article.

- 4) Every occupant of a dwelling or dwelling unit shall dispose of all his garbage and any other organic waste which might provide food for rodents, in a clean and sanitary manner, by placing it in the garbage disposal facilities or garbage storage containers required by this Article. It shall be the responsibility of the owner to supply such facilities or containers for all dwelling units in a dwelling containing more than four dwelling units and for all dwelling units located on premises where more than four dwelling units share the same premises. In all other cases it shall be the responsibility of the occupant to furnish such facilities or contains.
- 5) Every occupant of a dwelling or dwelling unit shall be responsible for hanging all screens and double or storm doors and windows whenever the same are required under the provisions of this Article of any rule or regulation adopted pursuant thereto, except where the owner has agreed to supply such service.
- 6) Every occupant for a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Notwithstanding the foregoing provisions of this subsection, whenever infestation is caused by failure of the owner to maintain a dwelling in a ratproof or reasonably insect-proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling, or in the shared public parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner.
- 7) Every occupant of a dwelling unit shall keep all plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.

### Section 3.06 Designation of Unit Dwellings and Legal Procedure of Condemnation

The designation of dwellings or dwelling units as unfit for human habitation and the procedure for the condemnation and placarding of such unfit dwellings or dwelling units shall be carried out in compliance with the following requirements:

- 1) Any dwelling or dwelling unit which shall be found to have any of the following defects shall be condemned as unfit for human habitation and shall be so designated and placarded by the Mayor and Council.
  - a. One which is so damaged, decayed, dilapidated, insanitary, unsafe, or vermin-infested that it creates a serious hazard to the health or safety of the occupants or of the public.
  - b. One which lacks illumination, ventilation, or sanitation facilities adequate to protect the health or safety of the occupants or of the public.

2) Any dwelling or dwelling unit condemned as unfit for human habitation, and so designated and placarded by the Council shall be vacated within a reasonable time as ordered by the Mayor and Council.

3) No dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by, the Mayor and Council. The Council shall remove such placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated.

4) No person shall deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation and placarded as such.

5) Any person affected by any notice or order relating to the condemning and placarding of a dwelling or dwelling unit as unfit for human habitation may request and shall be granted a hearing on the matter before the Mayor and Council.

### Section 3.07 Penalties

Any person who shall violate any provision of this Article, or any provision of any rule or regulation adopted by the Town pursuant to authority granted by this Article, shall upon conviction be punished by a fine of not less than five dollars (\$5.00) or more than one hundred dollars (\$100.00) or by imprisonment for not less than one day or more than ten days; and each day's failure to comply with any such provision shall constitute a separate violation.

### Section 3.08 Effect of Partial Invalidity

If any section, subsection, paragraph, sentence, clause, or phrase of this Article should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Article which shall remain in full force and effect; and to this end the provision of this Article are hereby declared to be severable.

### Section 3.09 Applicability

Sections 1 through 4 of this Article shall apply only to new construction within the Town of Burkittsville.

## Article IV. Building Regulations

### Section 4.01 Adoption of Building Code

This is hereby adopted by the Town of Burkittsville for the purpose of establishing rules and regulations for the construction, alternation, removal, demolition, equipment, use and occupancy, location and maintenance of buildings and structures, including permits and penalties, the certain building code known as the National Building Code, Abbreviated Edition, recommended by the National Board of Fire Underwriters, being particularly the 1955 edition as amended thereof and the whole thereof, save and except such portion as are hereinafter deleted, modified or amended, of which not less than three (3) copies have been and now are filed in the office of the Clerk of the Town of Burkittsville and the same

are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this ordinance shall take effect, the provisions thereof shall be controlling in the construction of all buildings and other structures within the corporate limits of the Town.

#### Section 4.02 Permit Required

No building of any description shall be erected or removed and no structural alterations or additions (except painting) to the same shall be made unless and until a permit shall have been first had and obtained.

#### Section 4.03 Permit Applications

Every person who erects or causes to be erected any building within the Town Limits or makes any structural alterations or additions (except painting) to the same shall before commencing work make a written application to the Mayor and Council for a permit, the same to be accompanied by plans and specifications for approval. And containing the name of the owner, lot and square number, kind of building, numbers of stories in height, dimensions of building and location of same on lot, the contemplated use of said building and the estimated value of the building, alterations or additions. All applications for a permit for the erection of any new building shall be accompanied by a fee which shall be established from time to time by resolution of the Mayor and Council.

Upon approval, the Town Clerk shall issue a building permit. Every plan for the erection of a new building must show thereon that suitable provisions have been made for the connection to the municipal sewer system if service is available or for the construction of an approved sanitary disposal system. If the new construction cannot be connected to the municipal sewerage system.

#### Section 4.04 Penalties

Any person or persons, firms or corporation violating any of the provisions of this Article or any of its Sections, not hereinbefore provided for, shall upon conviction be fined not more than One Hundred Dollars (\$100.00), or in default in the payment thereof be imprisoned in the County Jail not exceeding twenty-five days.

## Article V. Fire Regulations

### Section 5.01 State Fire Prevention Code

The provisions of the State Fire Prevention Code as adopted by the State Fire Prevention Commission shall be applicable in the Town of Burkittsville except in the event that local regulations as shown hereafter may be more stringent.

### Section 5.02 Adoption of Fire Prevention Code

There is hereby adopted by the Town of Burkittsville a Fire Prevention Code for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion.

### Section 5.03 Establishment of Office of Fire Official

The office of fire official may be created by the Mayor and Council, and his compensation shall be determined by the mayor and council.

### Section 5.04 Prevention of Fires

- a. No fuel, shaving, waste paper, trash, or other combustible matter shall be burned in the open within Town Limits, unless in the daytime, and at a distance of twenty-five feet from any building or other structure, not at a distance of fifteen feet from any fence, except the same be burned in a wire cage, provided no such matter shall be burned in streets, avenues, or alleys at any time. All fire shall be extinguished before sundown, by the person or persons making the same who shall be held responsible for any damage resulting therefrom.
- b. Any person violating any of the provisions of this Section shall upon conviction be fined not more than One Hundred (\$100.00) Dollars or in default thereof be imprisoned in the County Jail not more than twenty-five days.

### Section 5.05 Fire Works

The discharge or firing of fire crackers, rockets, torpedoes, roman candles, or other explosive fireworks, or the selling of any such fireworks within the Town is hereby prohibited under a penalty of not more than One Hundred (\$100.00) Dollars, or in default thereof be imprisoned in the County Jail for not more than twenty-five days.

### Section 5.06 False Alarms or Removing Fire Equipment

It shall be unlawful for any person to knowingly give a false alarm or remove any fire apparatus or equipment belonging to the Town or the Fire Department of Burkittsville from its proper place, except in the case of fire or other public necessity.

### Section 5.07 Fire Extinguishers Required



Every person, or corporations engaged in conducting a hotel, boarding house, rooming house, restaurant, or other business and the owner of every building within the Town where inflammable oil or other explosives are stored are required to keep and maintain on said premises a suitable fire extinguisher.

#### Section 5.08 Public Garages and Repair Shops to be Fireproof

All public garages and repair shops within the Town shall be fireproof. All private garages or other store rooms under any building used for human habitation wherein any motor or engine propelled by gasoline coal-oil, or other combustible material is kept shall be fireproof.

#### Section 5.09 Penalty

Any person, persons, guilty of violating any of the provisions of this Article, or failing to comply with the requirements thereof shall where no other penalty is prescribed, upon conviction be fined for each offense, not more than One Hundred (\$100.00) Dollars, or in default thereof be imprisoned in the County Jail for not more than twenty-five days.

### Article VI. Licenses

#### Section 6.01 Licenses Required

No person, corporation, company, firm, partnership, or association shall engage in any kind of business for gain within the Town Limits without first having obtained a license and paid the required license fee. Any such person, corporation, company, etc., desiring to obtain a license to engage in and conduct any business within the Town, shall first make application therefore in writing accompanied by the prescribed fee, to the Mayor and Council, in which shall be stated the lot and square number if the business is to be conducted in a building and nature of the business so to be conducted.

## Section 6.02 Street Vendors

No street vendor shall be permitted to sell any article or thing upon any street or public place within the Town, except at such places as may be designated by the Mayor and Council.

## Section 6.03 Vehicles Used for Vending

Every vehicle and everything pertaining thereto used by licensed vendor shall at all times be maintained in a clean and orderly condition, and no portion of the contents thereof, shall be thrown, spilled, or deposited upon the street or other public space.

## Section 6.04 Issuance and Approval of Application

Upon payment of the fees hereinafter provided, it shall be the duty of the Clerk-Treasurer to issue or cause to be issued a license to the applicant.

## Section 6.05 License Shall Designate Kind and/or Place of Business

Every license issued for the conduct of any business shall designate the place of such business and the kind of business to be engaged in, and such license may be transferable, by consent of the Mayor and Council.

## Section 6.06 Inspection

Any and all premises or vehicles used by the street vendors licensed hereunder for the conduct of business shall from time to time be inspected. If any unsanitary condition is found to exist, or other conditions injurious to the public health and moral are disclosed the same shall be ordered to be immediately corrected and if the order is not complied with, the license may be revoked by the vote of the Mayor and Council and all payments made on the same be forfeited to the Town of Burkittsville.

## Section 6.07 Annual License Fees

a. Annual license fees for the year beginning July 1 of each and every year in the amount as hereinafter set forth shall be due and payable on or before July of the current year. Any new business

commencing after July must obtain the required license prior to the starting of said business. All licenses acquired must be posted on the premises in a conspicuous place at all times.

b. No license for the operation of any type of business shall be issued unless all real estate taxes, personal property taxes, or any other public dues, fees, or assessments levied against the said premises, by the Town of Burkittsville wherein the business is to be conducted, are paid to, and including the calendar year immediately preceding the year for which the license is applied.

#### Section 6.08 Establishment of License Fees

The Mayor and Council shall from time to time pass a resolution establishing the license fees to be paid by various business categories in the Town of Burkittsville.

#### Section 6.09 License a Personal Privilege

Every license shall be held to confer a personal privilege to transact the business specified therein and shall not be exercised, except by the person, firm, company, or corporation licensed, or his, her, or its duly authorized agents, executors, or administrators.

#### Section 6.10 Penalty

Any person, corporation, company, firm, partnership, or association engaged in any business within the Town Limits without first having obtained a license, as required in this Article, or in any manner violating the provisions of the same, shall upon conviction be fined not more than One Hundred (\$100.00) Dollars or in default thereof be imprisoned in the County Jail not more than twenty-five days.

### Article VII. Street Construction or Alterations

#### Section 7.01 Definitions

For the purpose of this Article, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural numeral include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory.

1. Town is the Town of Burkittsville
2. Inspector is the Town inspector (or other official authorized to issue the permits granted hereunder) of the Town of Burkittsville.

3. Director is the Public Works Director (or other official holding the position of head the public works activities) of the Town of Burkittsville
4. Engineer is the Town Engineer of the Town of Burkittsville
5. Person is any person, firm, partnership, association, corporation, company, or organization of any kind.
6. Public Street is the entire area of the dedicated rights of way within the limits of the Town of Burkittsville

### Section 7.02 Permit Required

It shall be unlawful for any person to begin to construct, reconstruct, repair, alter, grade, dig up, cut, break, destroy or grade any sidewalk, curb, curb-cut, driveway, pavement, culvert, or drain pipe, ditch, tree, traffic control device, street light, utility pole, or other facility or area within the public streets without obtaining a permit from the inspector as provided in this Article.

### Section 7.03 Application

An applicant for a permit hereunder shall file with the inspector or applicant showing:

- a. Name and address of the owner or agent in charge of the property abutting the proposed work area.
- b. Name and address of the party doing the work.
- c. Location of the work area
- d. Attached plans showing details of the proposed alteration
- e. Estimated cost of the alteration
- f. Such other information as the inspector shall find reasonably necessary to the determination of whether a permit should issue hereunder.

### Section 7.04 Fees

The Mayor and Council of the Town of Burkittsville shall, from time to time, set and enact by resolution of such fees as deemed necessary to cover the costs of administering the provisions of this Article. Fees shall be two types, filing fees, and inspection and engineering fees.

- a. Filing Fees. The filing fees shall be flat rate fees regardless of the estimated cost of the work.

b. **Inspection and Engineering Fees.** Inspection and engineering fees for services performed on behalf of an applicant or permittee hereunder, shall be computed from a schedule of charges based on anticipated actual costs.

## Section 7.05 Bonds

The Inspector shall have the authority to require an applicant hereunder to file a bond conditioned to protect and save harmless the Town from all claims for damages or injury to other persons by reason of such alteration work. The following bonds shall accompany an application for the permit hereunder.

1. **Construction and Maintenance.** In cases where the estimated costs of the project shall exceed five hundred dollars (\$500.00) the Inspector shall require a maintenance and construction bond to be filed with the application for a permit hereunder in an amount equal to one-half of the estimated cost of the project and conditioned that such work shall be done in accordance with the Town Standard Specifications and guaranteeing the same for a period of one year.
2. **Failure of Compliance by Permittee.** In any case where a permittee hereunder shall be in default or shall fail to comply with the requirements of this Ordinance the Town of Burkittsville shall order the completion of the work by the Town and shall recover the cost from permittee as required by law.

## Section 7.06 Standards for Issuance of Permit

The Inspector shall issue a permit hereunder when he finds:

- a. That the work shall be done according to the standard specifications of the Town, as may be established from time to time by the Mayor and Council, for public work of like character.
- b. That the operation will not unreasonably interfere with vehicular and pedestrian traffic, the demand and necessity for parking spaces, and the means of egress to and from the property affected and adjacent properties.
- c. That the health, welfare, and safety of the public will not be unreasonably impaired.
- d. That the plans for the proposed operation have been approved by the Mayor and Council to whom they shall be forwarded by the Inspector within a reasonable time after receipt thereof.

## Section 7.07 Supervision and Control

All operations for which a permit is granted hereunder shall be under the direction and supervision of the Mayor and Council or its duly authorized representative. The Town of Burkittsville or its representative shall have the authority to cause all operations for which a permit is granted hereunder

to cease when the permittee fails to comply with any of the standards as specified under Section 6 above.

### Section 7.08 Order to Alter Curb-Cut or Other Facility

Where the use, convenience, and necessity of the public require, the Mayor and Council shall have the authority to order the owners, or agents in charge of property adjacent to which curb-cuts or other facilities are maintained, to alter the curb-cut or other facilities in such manner as shall be reasonably necessary under the circumstances.

#### a. Notice of Alteration Order

The notice required by this Section shall (1) require compliance by the permittee within thirty(3) days of said notice (2) be in writing and (3) be served upon the permittee as required by law.

### Section 7.09 Penalties

Any person violating any of the provisions of this Chapter or any part of a provision of this Article, shall, upon conviction for each violation be fined not less than Ten (\$10.00) Dollars, nor more than Twenty-five (\$25.00) Dollars, and upon failure to pay the fine shall be imprisoned until the fine is paid, but not exceeding twenty-five (25) days.

## Article VIII. Water and Sewage

### Section 8.01 Definitions

1. Private Water Supply shall mean a well, spring, or other water supplies used or intended to be used for drinking, cooking, and general domestic purposes and installed by a person, firm, or partnership for individual private use
2. Public Water Supply shall mean a well, spring, reservoir, or other water supply system installed at public or private expense for public or semi-public use.
3. Building at Home Occupancy shall mean a dwelling, apartment house, hotel, lodging, house, school, assembly hall, factory, or other building used for housing, assembly or enjoyment of persons.
4. Sewerage shall mean the liquid wastes from plumbing fixtures, such as the wastes from water closets, urinals, lavatories, baths, sinks, laundry tubs, floor drains, and other sanitary fixtures.

5. Sewage Tank shall mean a water type receptacle to receive sewage from a sewer to which plumbing fixtures are tributary, sewage tank is to be considered synonymous to septic tank, water-tight cesspool, and settling tank.
6. Nuisance is anything which endangers life or health, gives offense to the sense, violates the laws of decency, or obstructs the reasonable and comfortable use of property.
7. Refuse all solid waste materials, combustible, and non-combustible, resulting from the normal process of living.
8. Garbage is animal and vegetable waste resulting from the preparation and consumption of foods.
9. Ashes are non-combustible residue resulting from heating plants and incinerators and unless otherwise specified do not include tin cans, scrap metal, and glass.
10. Rubbish is combustible refuse such as rags, paper, wood, and similar materials in all forms, unless otherwise specified includes such non-combustible as tin, glass, and metals.
11. Health Office shall mean the health authority appointed by Ordinance of the Mayor and Council of Burkittsville.
12. Person – the word person used in these regulations shall mean person, firm, corporation, or association.

## Section 8.02 Water Supplies

Log of wells. Every well driller shall submit to the health office within ten days after the completion of a well within the corporate limits of Burkittsville, a complete log indicating the depth of formation, diameter, and depth of well, static bend, and size type and length casing material installed, capacity in gallons per minute and its location.

## Section 8.03 Location of Wells

A well shall be located not less than 75 feet of the maximum distance obtainable on the property there located, from any type of leaching device, leaching vault, privy, subsurface filler, or other contaminating surroundings.

## Section 8.04 Drainage

Drainage shall be provided for all well pits, but no drain from a well pit shall be connected to a sanitary sewer. Motor driven pumps shall be mounted on a concrete base not less than twelve (12) inches above the floor level.

#### Section 8.05 Installation of Water Supplies.

No person shall install or develop or change the development of a well, spring, or other source of water supply for drinking and general domestic purposes until such water supply its location, and the proposed method of development or plan therefore have been approved by the health officer and written permit has been issued by the Health Officer. No such permit shall be issued if a public water supply and satisfactory sanitary quality is available.

#### Section 8.06 Orders to Improve Water Supplies.

A water supply for drinking and general domestic purpose, which is found by the health officer to be impure and dangerous to public health or subject to contamination by reason of unsatisfactory location, protection, or construction, is hereby declared to be a nuisance and the Health Officer make it unavailable for use or to contamination; and he shall fix the time for such compliance with the order.

#### Section 8.07 Abandoned Water Supplies.

When a well, spring, or other source of water supply is abandoned on account of its impurity or in accordance with an order of the Health Officer, it shall be sealed or plugged, if possible, and filled to the ground surface with clay, earth, concrete, or other suitable materials or otherwise made unavailable as a source of water supply.

#### Section 8.08 Privies or Privy Vaults.

Privy or Privy Vault at public places. No person shall install or change a privy vaults at a public place until the location and construction of the plans therefore have been approved by the Health Officer.

#### Section 8.09 Specifications for the Private or Public Privies and Privy Vaults.



The construction of a privy or privy vault shall be in accordance with the specifications furnished without charge by the Health Officer.

#### Section 8.10 Privies Prohibited.

Abandoned Privies. No privy or privy vault shall be installed or retained on property accessible to a sanitary sewer. Whenever a sanitary sewer is made available, any privy or privy vault on such property shall be abandoned and connection shall be made direct from the building to the sewer. The issuance of permits shall be governed by this ordinance. An abandoned privy vault shall be thoroughly cleaned and disinfected with fresh chloride of lime or other disinfecting agent and filled to the ground surface with earth or other suitable filling material.

#### Section 8.11 Cleaning Vaults at Public Places.

Privy Vaults shall be cleaned thoroughly as determined by the Health Officer upon inspection. The vault shall not be permitted to become filled to the top. The cleaning of a privy vault and the removal of the contents thereof shall be done in such a manner as the Health Officer shall specify.

#### Section 8.12 Disposal of Privy Vaults.

No person shall discharge or permit to be discharged the contents of a privy vault onto the surface of the ground or into any street, road, alley, open excavation, storm water sewer, land drain ditch, watercourse, or body of water. The contents of a privy vault shall be removed in water-tight containers and disposed of by burial in a manner to avoid the creation of a nuisance and the pollution of a private or public water supply. The said contents shall be thoroughly disinfected with fresh chloride of lime or other suitable disinfecting agent and buried with an earth cover of at least eighteen (18) inches in depth.

#### Section 8.13 Disposal of House Slops and Wastes.

No person shall discharge urine, fecal matter, contents of chemical commode, kitchen wastes, laundry wastes, slop sink drainage, or any other wastes other than natural rainfall, onto the surface of the ground or into the street, alley, road, open excavation, abandoned well or cistern, storm sewer, street water sewer, and drain ditch, water-course or body of water. Such wastes shall be buried in a suitable place, deposited in a privy vault, or discharged into a sanitary sewer or an approved sewage disposal system.

#### Section 8.14 Discharge of Sewage Prohibited.

No person shall discharge or permit or cause to be discharged, sewage, the overflow, drainage, the contents of a sewage tank or other putrescible or offensive wastes onto the surface of the ground or into any street, road, alley, open excavation, storm sewer, land dry ditch, watercourse, or body of water. No tank or other putrescible, impure, or offensive wastes into an abandoned water supply, well, or cistern, or into a natural or artificial well, sink hole, or other opening extending into limestone, sandstone, or other rock or shale formation.

#### Section 8.15 Sewer Connections Required.

Abandoned Sewage Disposal Equipment. No sewage disposal device or equipment shall be installed or maintained on property accessible to a sanitary sewer. Whenever a sanitary sewer is made available, any sewage disposal device, or equipment on such property shall be abandoned and the sewage shall be discharged directly from the building to the sanitary sewer, through a properly connecting sewer without passage through the sewage tank or other treatment device. Roof water, cistern overflow, or surface or subsoil drainage shall not be discharged to a sanitary sewer or to sewage disposal equipment. An abandoned sewage tank or other device or equipment for treatment or disposal of sewage shall be thoroughly cleaned and disinfected and filled to the ground surface with ashes, earth, or suitable filling material.

#### Section 8.16 Exposure of Contents.

No sewage from a water carried system shall be accessible to flies or surface drainage, or shall be allowed to endanger a water supply or be allowed to seep or run on the surface of the ground.

#### Section 8.17 Applicability.

These provisions do not apply to any sewage disposal system connected or served by the Town of Burkittsville. Such system shall be constructed with the cooperation of the County and State Health Authorities and shall be subject to all State regulations pertaining thereto at the time of installation.

#### Section 8.18 Garbage and Offal.

No person shall place or deposit or permit to be placed or deposited dead animals, garbage, rubbish, or any putrescible refuse in any street, alley, road, open excavation ditch, stream or body of water or on

the surface of the ground provided, however, that this regulation shall not prohibit the depositing of such wastes on the surface of the ground for the purpose of feeding animals and fowls. Unless a general system of collecting and disposal of garbage, by the Town of Burkittsville, is maintained, such wastes shall be disposed of by the producer by burial, burning, feeding, or reduction.

#### Section 8.19 Nuisances.

Where a nuisance, as defined elsewhere in this Article, is found in any building, or upon any ground or premises within the incorporate limits of Burkittsville, notice in writing shall be given by the Health Officer to the owner or occupant of such building or premises to abate such nuisance. The time for compliance with the order shall be specified in such notice. In case of neglect or refusal to abate the nuisance with such notice, the Health Officer shall cause said owner or occupant to be prosecuted as provided by law.

#### Section 8.20 Penalty.

Whoever violates any provisions of these provisions or any order of the Health Officer or obstructs or interferes with the execution of such order, or willfully or illegally refuses to obey such order shall be fined not exceeding the sum of ten (\$10) dollars and each week of failure or refusal to comply with the order shall be deemed a separate offense, and he shall be fined an additional sum of five (\$5) dollars for each such offense.

#### Section 8.21 Unconstitutionality and Adaptation Clause.

In the event that any of the foregoing stipulations regarding specific distances cannot for adequate reasons be complied with, and if in the opinion of the Health Officer and the Public Health will not be endangered, the Health Officer may grant written permission for the necessary arrangements to meet the local condition in a manner satisfactory to him.

Should any Article, Section, paragraph, sentence, clause, or phrase of this Code be declared unconstitutional or invalid for any reasons, the remainder of said Code shall not be affected thereby.

## Article IX. How Boards Function

### Section 9.01 Definitions

For the purpose of using both the subdivision ordinance and the zoning ordinance, certain terms or words contained within those ordinances shall be interpreted as defined by this section. Words not so defined herein shall be as defined in a dictionary.

Words used in the present tense include the future. All words in the singular include the plural and all words in the plural include the singular. The word "shall" is mandatory and not directory. The word "used" shall be deemed to include "designed, intended, or arranged to be used"

ADMINISTRATOR. (See "Environmental Management Administrator".)

AGRICULTURE. The use of land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, fish culture, animal and poultry husbandry; provided

that the above uses shall not include the business of garbage feeding of hogs, fur farms or the raising of animals for use in medical or other tests or experiments.

**ALLEY.** A right-of-way which provides secondary service access for vehicles to the side or rear of abutting properties.

**APARTMENT.** A separate dwelling unit within a multi-family dwelling.

**ASSISTED LIVING FACILITY.** A licensed residential facility that provides various types of housing, medical, and supportive services for individuals who, due to age, infirmity, disability or medical condition, are unable to perform or are in need of assistance in performing their daily personal activities, in a way that promotes and allows for the dignity and independence of its residents, and is staffed on a full-time basis with such medical, nursing, administrative and other staff necessary to offer and provide those services.

**BILLBOARD SIGN.** A roadside sign used for purposes of advertising, displaying or promoting any activity, person, group, business, entity, event, or thing not located upon the premises or property upon which the sign is located. This shall not include federal, state or local traffic or directional signs or historic markers or signs.

**BOARD.** The Burkittsville Board of Appeals.

**BOARDING HOUSE.** A dwelling in which, for compensation, lodging or meals, or both are furnished to not more than six (6) guests. A boarding house shall not be deemed a home occupation.

**BUILDING.** A structure having one (1) or more stories and a roof, designed primarily for the permanent shelter, support or enclosure of persons, animals, or property of any kind.

**BUILDING ACCESSORY.** A building subordinate to, and located on the same lot with a main building, the use of which is clearly incidental to that of the main building or to the use of the land, and which is not attached by any part of a common wall or common roof to the main building.

**BUILDING HEIGHT OF.** The vertical distance measured from the level of approved street grade opposite the middle of the front of the building to the highest point of roof surface of a flat roof; to the deck line of a mansard floor; and to the mean height level between eaves and ridge of a gable, hip or gambrel roof.

**BUILDING SETBACK LINE.** A line beyond which the foundation wall and/or any enclosed porch, vestibule or other enclosed portion of a building shall not project as determined by the yard requirements.

**CELLAR.** That portion of a building below the first-floor joists at least half of whose clear ceiling height is below the main level of the adjacent ground.

**CHILD CARE HOME.** A day nursery, child boarding home, day camp, summer camp, or other place for the reception, board, or care for compensation of a child or children under sixteen (16) years of age.

**COMMISSION.** The Burkittsville Planning and Zoning Commission.

**COMPREHENSIVE PLAN.** A plan which does consist of maps, data, and other descriptive matter, as a guide for the physical development of the Town or any portion thereof, including any amendments, extensions, or additions thereto adopted by the Commission, indicating the general locations for major

roads, parks or other public open spaces, public building sites, routes for public utilities, zoning districts or other similar information.

**CONDOMINIUM.** A separate dwelling unit within a multi-family dwelling with shared common areas as established under the Maryland Condominium Act, codified at Code of Maryland, Real Property Article, Title 11.

**COUNCIL.** The Town Council of Burkittsville.

**COUNTY.** Frederick County, Maryland.

**DAY CARE CENTER.** A facility licensed by the State of Maryland and operated for the purposes of providing adult supervision and care to eight (8) or fewer children under the age of six (6) years of age, who must be separated from their parents or legal guardians during any part of the day.

**DEVELOPER.** The person or corporation responsible for developing a parcel of land, including but not limited to constructing improvements of structures, demolishing or removing structures, subdividing for lot sales or rental purposes, and establishing or changing the use to which the land and/or structures may be put.

**DWELLING.** A building or portion thereof arranged or designed to provide living facilities for one (1) or more families, but not including a tent, cabin, mobile home, bus, recreational vehicle or camper, or a room in a motel or hotel.

**DWELLING ONE-FAMILY OR SINGLE-FAMILY.** A building containing not more than one (1) dwelling unit.

**DWELLING TWO-FAMILY/DUPLEX.** A building containing not more than two (2) dwelling units, arranged either one (1) above the other or side by side.

**DWELLING MULTI-FAMILY.** A building containing two (2) or more dwelling units.

**DWELLING UNIT.** a building or portion thereof arranged or designed for occupancy by not more than one (1) family for residential living purposes and having kitchen and bathroom facilities.

**ENVIRONMENTAL MANAGEMENT ADMINISTRATOR.** The administrative officer of the Town charged with administering the regulations governing development.

**FARM.** A parcel of land not less than five (5) acres in size used for agriculture as defined hereinabove.

**FRONTAGE.** The length of the front property line of the lot, lots, or tract of land abutting a public street, road, or highway, or rural right-of-way.

**HOME OCCUPATION.** Any occupation or business use conducted entirely within a dwelling unit or accessory structure by members of the family residing on the premises, which is clearly incidental and secondary to the residential use of the building.

**LOT.** A parcel of land occupied or to be occupied by a building and its accessory buildings, together with such open spaces as required.

**LOT AREA.** The total horizontal area included within the rear, side and front lot or proposed street lines of the lot excluding any streets or highways, whether dedicated or not dedicated to public use, but including off-street automobile parking area and other accessory uses.

**LOT CORNER.** a lot abutting on two (2) or more streets at their intersection, where the interior angle of the intersection does not exceed one hundred thirty-five (135) degrees.

**LOT DEPTH OF.** The average distance between the front lot lines and the rear lot lines.

**LOT FRONT OF.** The sides or sides of an interior or through lot which abut a street; in a corner lot, either side that abuts a street.

**LOT FRONTAGE MINIMUM: AT BUILDING SETBACK LINE.** The minimum allowable width of a lot, measured horizontally along the building setback line

**LOT FRONTAGE MINIMUM: AT FRONT LOT LINE.** The minimum allowable width of a lot measured horizontally along the front lot line.

**LOT LINE FRONT.** The street line running along the front of the lot separating it from the street. In a through lot, both lines abutting the shall be deemed to be the "front lot lines".

**LOT LINE REAR.** The lot line or lines generally opposite or parallel to the front lot line, except in a through lot. If the rear lot line is less than ten (10) feet long or the lot comes to a point at the rear, said rear lot line is assumed to be a line not less than ten (10)

feet long, lying wholly within the lot, parallel to the front lot line, or in the case of a curved front lot line, parallel to the chord of the arc of said front lot line.

**LOT OF RECORD.** Any lot legally recorded in the Land Records of Frederick County, Maryland as of January 1, 2003.

**LOT LINE SIDE.** Any lot line other than a front lot line or a rear lot line.

**MEDICAL OR DENTAL CLINIC.** Any building or group of buildings occupied by medical practitioners and related services for the purpose of providing health services to people on an out-patient basis.

**MOBLE HOME.** (also sometimes referred to as a "manufactured home") means a structure, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or when erected on a site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and which includes the plumbing, heating, air-conditioning, and electrical systems contained Within it.

**NON-CONFORMING USE.** A use of a building or of land lawfully existing at the time this and/or previous ordinances or amendments thereto becomes effective and which does not conform with the use regulations of the zone in which it is located.

**NURSERY SCHOOL.** A facility licensed by the State of Maryland and operated for the purpose of providing education, training, guidance, and supervision to nine (9) or more children under the age of six (6) years of age.

**NURSING HOME.** A time, care, licensed, residential nursing facility that provides to its residents medical, nursing and health care services, along with housing, meals and assistance with daily personal needs and activities, and is staffed on a full time basis with such medical, nursing and administrative staff necessary to provide such services to its residents.

**PANHANDLE LOT.** A lot with the appearance of a "frying pan" or "flag and staff", in which the "handle" is used as the point of ingress and egress to the street or road.

**PROFESSIONAL OFFICE.** Rooms and/or buildings used for the office purposes by a member of any recognized profession, including doctors, dentists, lawyers, accountants, engineers, etc., but not including medical or dental clinics or veterinary clinics.

**ROOMING HOUSE.** A dwelling in which for compensation, lodging is furnished to three (3) or more, but not exceeding six (6) guests. A rooming house shall not be deemed a home occupation.

**SIGN.** Any structure, part thereof, or device attached thereto or painted or represented thereon or any material or thing, illuminated or otherwise, which displays or includes any numeral, letter, word, model, banner, emblem, insignia, device, trademark, or other representation used as, or in the nature of, an announcement, advertisement, direction, or designation, or designation of any person, firm, group, organization, place, commodity, product, service, business, profession, enterprise, or industry which is located upon any land, or any building, in or upon a window, or indoors in such a manner as to attract attention from outside the building. This shall not include street or traffic directional signs.

**STORY.** That portion of a building included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, be counted as a story, if it is for business or dwelling purposes. A mezzanine floor shall be counted as a story if it covers more than one-third (1/3) of the area of the floor next below it or if the vertical distance between the floor next below it and the floor next above it is twenty (20) feet or more.

A public or dedicated way for vehicular traffic or a public proposed right-of-way, widening or extension of an existing street or public way shown on any plan approved by the Commission.

**STRUCTURAL ALTERATION.** Any change in the structural members of a building, such as walls, columns, posts, beams, or girders.

**STRUCTURE.** An assembly of materials forming a construction for occupancy or use including among others, buildings, stadiums, gospel and circus tents, reviewing stands, platforms, stadiums, observation towers, radio and television (T.V.) broadcasting towers, water tanks, trestles, open sheds, coal bins shelters, fences, walls, signs, power line towers, pipelines, railroad tracks and poles.

**TOWNHOUSE.** A separate dwelling unit, which shares a common exterior side wall or walls with and adjoins other similar adjoining separate dwelling units.

**USE.** The principal purpose for which a lot or the main building thereon is designed, arranged, or intended and for which it is or may be used, occupied, or maintained.

**USE, ACCESSORY.** A use of a building, lot, or portion thereof, which is customarily incidental and subordinate to the principal use of the main building or lot.



USE, SPECIAL EXCEPTION. A use which may be permitted in a district through the granting by the Board of Appeals of a special as defined in Article 66B of the Annotated Code of Maryland, upon a finding by the Board that it meets specified conditions as set forth in Section 2.31 of these Regulations.

YARD. Open space on the same lot with a building or group of buildings, lying between the building or outer building of a group and the nearest lot or street line, and unoccupied and unobstructed from the ground upward, except as provided in this ordinance.

YARD FRONT. Open space extending across the full width of lot between the front lot line or the proposed front street line and nearest line of the building or any enclosed portion thereof. The depth of such a yard shall be the shortest horizontal distance between the front lot line or proposed front street line and the nearest point of the building or any enclosed portion thereof

YARD REAR. Open space extending across the full width of lot between the rear line of the lot and the nearest line of the building, porch or projection thereof. The depth of such yard is the shortest horizontal distance between the rear lot line and the nearest point of the building.

YARD SIDE. Open space between the side lot line, the side street line, or the proposed side street line, if such line falls within the lot, and the nearest line of the foundation of the building, porch or projection thereof, extending from the front yard to the rear yard, or, in the absence of either of such yards, to the front lot line and/or rear lot line. The width of a side yard shall be the shortest distance between the side lot line and the nearest point of the foundation of the building, porch or projection.

ZONE. An area within which certain uses of land and buildings are permitted and certain others required; lot areas, building height limits, and other requirements are established; all of the foregoing being identical for the zone in which they apply.

ZONING ADMINISTRATOR. See "Environmental Management Administrator".

ZONING CERTIFICATE. A written statement issued by the Environmental Management Administrator authorizing buildings, structures or uses consistent with the terms of this chapter and for the purpose of carrying out and enforcing its provisions.

ZONING MAP. The zoning map of the Town of Burkittsville with all amendments thereto subsequently adopted.

## Section 9.02 Administration of the Subdivision and zoning ordinances

The administration of Article IX regulating the subdividing of property and governing the comprehensive zoning or rezoning of property including the regulating of the use of both land and structures on the land shall be by the rules contained in this section.

### 2.10 Environmental Management Administrator — Established

- a) The position of Environmental Management Administrator is hereby established.

b) The Environmental Management Administrator, known here afterwards as the "Administrator", shall be appointed by the Mayor and confirmed by the Town Council. The Administrator may be a person, commission, or agency of the Town or Council.

c) The Administrator shall serve at the pleasure of the Mayor and Council shall receive such compensation as determined by them.

#### 2.11 Duties

The administrator shall:

a) Act as Secretary to the Planning and Zoning Commission and Board of Appeals.

b) On behalf of the Town Council and all boards and commissions, the Administrator shall accept and process petitions for zoning text and map changes; accept and process applications for zoning certificates and site plan reviews; enforce the subdivision and zoning ordinances of the Town and make inspections related thereto; carry out other duties as assigned by the various boards and commissions in order to implement the Town plan and attain the purposes set forth in the subdivision and zoning ordinances.

#### 2.20 Board of Appeals — Established

Pursuant to Article 66B, Section 4.07 of the Annotated Code of Maryland, the Burkittsville Board of Appeals is hereby created. It shall consist of three (3) members and one (1) alternate member, who shall serve in the absence of any regular member. All members shall be appointed by the Mayor and confirmed by the Town Council. The terms of the office of the initial members of the Board shall be for terms of one (1), two (2) and three (3) years respectively. Thereafter, each member shall be appointed for a three (3) year term.

2.21 The powers, duties and responsibilities of the Board shall be as described in Article 66B, Section 4.07 of the Annotated Code of Maryland, as amended.

2.22 The denial of a zoning certificate, by the Administrator, shall entitle the applicant for said certificate to file an appeal before the Board of Appeals. In addition, any other person aggrieved by a decision of the Administrator or other person affected by the decision of the Administrator, as provided in Article 66B, Section 4.07(e), may file an appeal to the Board of Appeals. The Administrator shall see that proper advertisement, notification to adjacent property owners, and the posting of the property occur at least fifteen (15) days prior to the public hearing. The zoning certificate shall be used as the application before the Board.

#### 2.30 Variances:

1) Application for a variance shall be filed only by a person or persons with a financial, contractual, or proprietary interest in the property in question or by his or her authorized agent.

2) The Board may authorize a variance from the height, lot area, parking, and yard requirements only when specific findings are made to the Board's satisfaction that each of the following conditions are met:

- a) Whereby reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to the specific parcel of property, or of the use of the property or property immediately adjacent, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property;
  - b) The variance requested is the minimum reasonably necessary to overcome the extraordinary or exceptional conditions applicable to the property;
  - c) That the literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance and
  - d) That granting the variance will not confer on the applicant any special privilege that is denied by this Ordinance to other lands or structures in the same district;
  - e) That the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and
  - f) No variance shall be granted in any case where the applicant or their agent has created or caused to be created a situation which would or has necessitated the issuance of a variance in order for such property to comply with this Ordinance.
- 3) In granting the variance, the Board of Appeals may prescribe appropriate and specific conditions and safeguards, including location, construction, maintenance, and operation in conformity with the Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be a violation of this Ordinance.
- 4) Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in the zone involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said zone.

#### 2.31 Special Exceptions

- 1) Application for a special exception may be filed only by a person or persons with a financial, contractual, or proprietary interest in the property for which the exception is requested. The Board may authorize special exceptions included in Section 8 of this Ordinance only when the Board finds that the following conditions exist:
- a) The proposed use is in harmony with the purpose and intent of the Comprehensive Plan and this Zoning Ordinance.
  - b) The characteristics of the use and its operation on the property in question and in relation to adjacent properties will not create any greater adverse impact than the operation of any permitted use not requiring special exception approval.

c) That the proposed activity will comply with all conditions and requirements set forth in Section 8 of this Ordinance.

2) The Board may attach to the approval any special conditions in addition to those specified in the Ordinance which it finds are necessary to protect adjacent properties and the general neighborhood and to carry out the intent of this Ordinance. Violation of such additional conditions is a violation of this Ordinance and may be grounds for termination of the special exception.

The Board may require the installation, operation, and maintenance of devices and methods of operation as may, in its opinion, be reasonably required to prevent or reduce hazardous or congested traffic conditions, odor, dust, smoke, gas, noise, or similar nuisances. The Board may impose such other conditions and requirements as may be necessary in its opinion to protect adjacent properties and neighborhoods and prevent conditions which may become obnoxious or offensive. In authorizing a special exception, subject to compliance with certain conditions, the Board shall require from the owners, lessees, or tenants of the property for which the special exception is granted such evidence, written agreement, guarantee, or bond as it may deem necessary, to ensure compliance with the conditions stipulated by the Board. Any such written agreement may be required by the Board to be recorded among the land records of Frederick County, at the expense of the applicant.

3) No use or activity permitted by special exception shall be enlarged or extended beyond the limits authorized in the grant of special exception. Changes from one special exception use to another use permitted by special exception shall require approval by the Board.

## 2.32 Temporary Uses

The Board may authorize the temporary use of a building or property in any zoning district for a purpose or use that does not conform to the regulations prescribed by this Ordinance for the zoning district in which it is located; provided, that such use be of a temporary nature and does not involve the erection of substantial buildings. Such certificate shall be granted in the form of a temporary and revocable permit for not more than a six (6) month period subject to such conditions as will safeguard the public health, safety, convenience, and general welfare. Such certificate shall not be renewed for more than two (2) successive six (6) month periods.

## 2.40 Planning and Zoning Commission — Established

Pursuant to Section 3.01, et. seq. of Article 66B of the Annotated Code of Maryland, the Burkittsville Planning and Zoning Commission is hereby reestablished. The Commission shall consist of five (5) members, who shall be appointed by the Mayor and confirmed by the Town Council. In addition, the Mayor with confirmation of the Town Council may appoint an alternate member. The terms of office of the members of the Commission shall be for five (5) years, except that the initial appointments to the Commission shall be for terms of one (1), two (2), three (3), four (4) and five (5) years, respectively. Thereafter, appointments shall be for a term of five (5) years.

2.41 The powers, duties and responsibilities of the Commission shall be as stated in Article 66B, Sections 3.04 and 3.05 of the Annotated Code of Maryland, including, but not limited to, the following:

- a) Preparation, approval and recommendation of Comprehensive plan; elements of plan. It shall be the function and duty of the Commission to make and approve a plan which shall be recommended to the local legislative body for adoption and which shall serve as a guide to public and private actions and decisions to ensure the development of public and private property in appropriate relationships and which shall include any areas outside of the boundaries of the plan which, in the Commission's judgment, bear relation to the planning responsibilities of the Commission. The elements of the plan may be expressed in words, graphics, or other appropriate form. They shall be interrelated, and each element shall describe how it relates to each of the other elements and to the statement of objectives, principles, policies, and standards.
- b) Plans for major geographic sections. The Commission may from time to time approve and publish a plan as defined in Subsection (a) of this Section for one (1) or more major geographic sections or divisions of the jurisdiction.
- c) Miscellaneous powers and duties. The Commission shall have power to promote public interest in and understanding of the plan. The Commission shall from time to time recommend to the appropriate public officials programs for public structures, improvements and land acquisitions, and for their financing. It shall be part of its duties to consult public officials and agencies, public utility companies, civic, educational, professional, and other organizations, and citizens with relation to the protecting or execution of the plan. The Commission shall have the right of protection or execution of the plan. The Commission shall have the right to accept and use gifts and public or private grants for the exercise of its functions. All public officials shall, upon request, furnish to the Commission within a reasonable time that available information as it may require for its program. The Commission, its members, officers, and employees, in the performance of their functions may enter upon any land and make examinations and surveys. In general, the Commission shall have those powers as may be necessary to enable it to fulfill its functions, promote planning, or execute the purposes and powers granted to it under Article 66B, Sections 3.04 and 3.05.
- d) In preparing the plan, the Commission shall carefully and comprehensively survey and study:
  - 1)
    - a) Present conditions;
    - b) Projections of future growth of the local jurisdiction; and
    - c) The relation of the local jurisdiction to neighboring jurisdictions.
  - 2) The Commission shall make the plan with the general purpose of guiding and accomplishing the coordinated, adjusted, and harmonious development of the local jurisdiction and its environs.
  - 3) A plan shall promote, in accordance with present and future needs:
    - i. The health, safety, morals, order, convenience, prosperity, and the general welfare of the local jurisdiction; and
  - 4) A plan shall provide for:
    - i. Transportation needs;

- ii. The promotion of public safety;
- iii. Light and air;
- iv. The conservation of natural resources;
- v. The prevention of environmental pollution;
- vi. The promotion of a healthful and convenient distribution of population;
- vii. The promotion of good civic design and arrangement;
- viii. The wise and efficient expenditure of public funds;
- ix. Adequate public utilities; and
- x. an adequate supply of other public requirements.

e) Recommendations as to district boundaries and regulations; reports. In order that a County or municipal corporation may avail itself of the zoning powers conferred by this Article, it shall be the duty of the Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. Such Commission shall make a preliminary report and hold at least one (1) public hearing thereon before submitting its final report and recommendation to the Mayor and Town Council, which shall not hold its public hearings or take action until it has received the final report of such Commission.

#### 2.50 Appointments

All appointments to a Board or Commission shall be made by the Mayor and confirmed by the Town Council.

#### 2.60 Filling of Vacancies

When a vacancy occurs on a Board or Commission, the Mayor, with the confirmation of the Town Council, shall appoint a person to fill the remainder of the unexpired term.

#### 2.70 Decisions

Any decision of the Planning and Zoning Commission, Board of Appeals or Zoning Administrator shall be confirmed in writing to the applicant, which written decision shall include and confirm any vote taken and the basis for the decision.

### Section 9.03 Accessory Structures

- A. Authority** - The Mayor and Council of the Town of Burkittsville and the Burkittsville Planning and Zoning Commission derive authority for this ordinance by virtue of its conformance with provisions of the Land Use Article of the Annotated Code of Maryland.

**B. Purpose** -To preserve the historic nature of the HV District in appearance and character, by prohibiting building materials used to construct accessory structures that will disrupt the historic character of the HV District.

**C. Definitions -**

**Accessory Structure** - Any structure that does not contain a primary use or purpose. Examples of such structures include, but are not limited to, sheds, pavilions, garages, workshops, weather shelters, storage buildings, well houses, and other general outbuildings.

**D. Prohibited Materials** - All accessory structures within the HV District shall not be permitted to be constructed of the following building materials as a part of the exterior construction:

1. Particle Board
2. Composite Board
3. Vinyl
4. Plastic
5. Fiber Glass

## Section 9.04 Demolition by Neglect (2009 – 01)

### a. Authority

The Mayor and Council of the Town of Burkittsville, Maryland and the Burkittsville Planning and Zoning Commissioners, derive authority for this ordinance by virtue of its conformance with provisions of the State of Maryland Enabling Act for Historic Area Zoning (Article 66B, Section 8.01-8.17, Annotated Code of Maryland, as amended) and Frederick County Maryland Code of Ordinances Section 1-23: Historic Preservation.

### b. Purpose

1. The preservation of landmarks, sites, structures, and districts of historical, archeological, or architectural significance together with their appurtenances and environmental settings is a public purpose in both the Agricultural and Historical Village Districts of the Town of Burkittsville, Maryland.

2. It is the further purpose of this article to preserve and enhance the quality of life and to safeguard the historical and cultural heritage of the Town of Burkittsville, Maryland by preserving sites or structures within our districts which reflect elements of cultural, social, economic, political,

archeological, or architectural history; to strengthen the local economy; to stabilize and improve property values of such sites, structures, or districts; to foster civic beauty; to ensure public safety; and to promote the preservation and appreciation of such sites, structures, and districts for the education and welfare of the residents of the Town of Burkittsville, Maryland.

In order to promote the preservation of the Historic Village and Agricultural Districts, owners shall maintain or cause to be maintained the exterior and structural features of their historic properties and not allow conditions of neglect to occur. The exterior features of any landmark, site or structure located within the districts shall be preserved by the owner or such other person who may have legal possession, custody, and control thereof against decay and deterioration and kept free from structural defects. The owner, or other person having such legal possession, custody, and control, shall upon written request by the Town repair such exterior features if they are found to be deteriorating.

### c. Definitions

For the purposes of the Ordinance the following words and phrases, shall have the meanings respectively ascribed to them:

1. "Appurtenances and environmental settings" shall mean all that space of grounds and structures thereon which surrounds a designated Site or Structure and to which it relates physically or visually. Appurtenances and environmental settings shall include, but not be limited to, walkways and driveways (whether paved or not), trees, landscaping, pastures, croplands, waterways, open space, setbacks, parks, public spaces, and rocks.
2. "Certificate of Appropriateness" shall mean a certificate issued by the Burkittsville Planning & Zoning Commission indicating its approval of plans for construction, alteration, reconstruction, moving, or demolition of an individually designated landmark, site or structure or of a site or structure within a designated preservation district.
3. "Demolition by neglect" shall mean any willful abandonment or lack in the maintenance and repair of an individually designated landmark, site, or structure, or a site or structure within the designated agricultural or historic village districts, not including any appurtenances and environmental settings, that does not result from an owner's financial inability to maintain and repair such landmark, site, or structure, and which results in but not limited to any of the following conditions:
  - a. Deterioration of any exterior feature so as to create or permit the creation of any hazardous or unsafe conditions to life, health, or other property.
  - b. Deterioration of exterior walls, foundations, or other vertical support that causes leaning, sagging, splitting, listing, or buckling.
  - c. Deterioration of flooring or floor supports, roofs, or other horizontal members that causes leaning, sagging, splitting, listing, or buckling.
  - d. Deterioration of external chimneys that causes leaning, sagging, splitting, listing, or buckling.
  - e. Deterioration or crumbling of exterior plasters or mortars.



- f. Ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors.
  - g. Defective protection or lack of weather protection for exterior wall and roof coverings, including lack of paint, or weathering due to lack of paint or other protective covering.
  - h. Rotting, holes, and other forms of decay.
  - i. Deterioration of exterior stairs, porches, handrails, window and door frames, cornices, entablatures, wall facings, and architectural details that causes delamination, instability, loss of shape and form, or crumbling.
  - j. Heaving, subsidence, or cracking of sidewalks, steps, or pathways.
  - k. Boarded up windows and doors prohibited; exceptions. Boarded-up windows and doors in areas in the historic district are prohibited with the following exceptions. Temporary exceptions to this standard can only be authorized by a certificate of appropriateness that is approved by the Burkittsville Planning and Zoning Commission or by order of the Environmental Management Administrator for a specific limited time period in order to protect the structure against further deterioration pending replacement windows, doors, or storefronts. All temporary boarded up windows which will remain for more than 30 days must be painted as specified and authorized by the certificate of appropriateness. Property owners in the districts who currently have windows or doors boarded-up must have such windows and doors replaced pursuant to a certificate of appropriateness, within six months of the effective date of the ordinance from which this section derives.
4. "Exterior features" shall mean the architectural style, design, and general arrangement of the exterior of an historic structure, including the nature and texture of building material, and the type and style of all windows, doors, light fixtures, signs, or similar items found on or related to the exterior of an historic structure.
5. "Landmark" shall mean any designated site or structure outside the boundaries of a preservation district that is of exceptional historic, archeological, or architectural significance.
6. "Site" shall mean the location of an event of historic significance or a structure, whether standing or ruined, which possesses historic, architectural, archeological, or cultural significance.
7. "Structure" shall mean a combination of material to form a construction that is stable, including but not limited to out buildings, grain storage silos or towers, water tanks and towers, bridges, paving, bulkheads, sheds, garages, smoke houses, bins, shelters, fences, and display signs visible or intended to be visible from a public way. The term "structure" shall be construed as if followed by the words, "or part thereof."
- d. Investigation of Conditions of Neglect.

The town designate the Environmental Management Administrator to investigate petitions and make findings.

e. Petition and action.

The Mayor and Council of the Town of Burkittsville, Maryland or the Burkittsville Planning & Zoning Commission may file a petition listing specific defects with the Environmental Management Administrator requesting that (s)he act under the following procedures to require the correction of deterioration or making of repairs to any historic landmark or significant site or structure located within the districts so that such structure or site shall be preserved and protected in accordance with this ordinance:

1. Whenever a petition is filed with the Environmental Management Administrator charging that a landmark, site or structure is undergoing demolition by neglect, (s)he (or a designated agent) shall, if her/his preliminary investigation discloses a basis for such charges, within 15 days issue and cause to be served upon the owner and/or such other person who may have legal possession, custody, and control thereof, as the same may be determined by reasonable diligence, a complaint stating the charges and offering the owner the opportunity to meet in person with the Environmental Management Administrator not less than 30 nor more than 45 days after the serving of such complaint. The owner and/or parties in interest shall be given a right to answer to give testimony at the place and time fixed in the complaint; the town shall also be given notice of the hearing; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Environmental Management Administrator. The purpose of the hearing is to receive evidence concerning the charge of deterioration and to ascertain whether the owner and/or other parties in interest wishes to petition the Board of Appeals for a claim of undue economic hardship.
2. If after such notice and hearing, the Environmental Management Administrator determines that the structure is undergoing demolition by neglect because it is deteriorating, according to the standards of this section, the inspector shall state in writing the findings of fact in support of such determination and shall issue and cause to be served upon the owner and/or other parties in interest therein an order to repair within the time specified those elements of the structure that are deteriorating, contributing to deterioration, or deteriorated. In the event that the owner and/or other parties in interest wish to petition for a claim of undue economic hardship, the inspector's order shall be stayed until after the Board's determination.

f. Methods of Service.

Complaints or orders issued by the Environmental Management Administrator shall be served upon persons either personally or by registered or certified mail; but if the whereabouts of such persons are unknown and the same cannot be ascertained by the inspector in the exercise of reasonable diligence, and the Environmental Management Administrator shall make an affidavit to that effect, stating the steps taken to determine and locate the persons in interest, then the serving of such complaint or order may be made by publishing the same once each week for two successive weeks in a newspaper generally circulated within the city. Where such service is by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

g. Safeguards from Undue Economic Hardship.

1. When a claim of undue economic hardship is made owing to the effects of this ordinance, the Environmental Management Administrator shall notify the Board of Appeals within ten days following the hearing on the complaint. The Board of Appeals shall schedule a hearing on the claim at its earliest convenience, within the limitations of its procedures for application deadlines. The petitioner shall present the information provided under subsection 2 below to the Board of Appeals. The Board of Appeals may require that an owner and/or parties in interest furnish such additional information that is relevant to its determination of undue economic hardship. The Board of Appeals may direct that additional information be furnished as the board believes is relevant such as findings from the Planning & Zoning Commission or the Mayor and Council. The Board of Appeals shall also state which form of financial proof it deems relevant and necessary to a particular case. In the event that any of the required information is not reasonably available to the owner and/or parties in interest and cannot be obtained by the owner, the owner shall describe the reasons why such information cannot be obtained.

2. When a claim of undue economic hardship is made owing to the effects of this ordinance, the owner and/or parties in interest must provide evidence during the hearing upon the claim, describing the circumstances of hardship. The minimum evidence shall include for all property:

- a. Nature of ownership (individual, business, or nonprofit) or legal possession, custody, and control.
- b. Financial resources of the owner and/or parties in interest.
- c. Cost of repairs.
- d. Assessed value of the land and improvements.
- e. Real estate taxes for the previous two years.
- f. Amount paid for the property, date of purchase, and party from whom purchased, including a description of the relationship between the owner and the person from whom the property was purchased, or other means of acquisition of title, such as by gift or inheritance.
- g. Annual debt service, if any, for previous two years.
- h. Any listing of the property for sale or rent, price asked, and offers received, if any.
  - i. For income producing property:
    - i. Annual gross income from the property for the previous two years.
    - ii. Itemized operating and maintenance expenses for the previous two years, including proof that adequate and competent management procedures were followed.

iii. Annual cash flow, if any, for the previous two years.

3. Within 60 days of the Board of Appeals hearing on the claim, the Board of Appeals shall cause to be made a finding regarding the claim of undue economic hardship and shall enter the reasons for such finding into the record. In the event of a finding of no undue economic hardship, the Planning & Zoning Commission shall report such a finding to the Environmental Management Administrator. The Environmental Management Administrator shall then cause to be issued an order for such property to be repaired within the time specified.

4. In the event of a finding of undue economic hardship, the finding shall be accompanied by a recommended plan to relieve the economic hardship. This plan may include, but is not limited to, property tax relief as may be allowed under the Maryland law, loans or grants from the town, the county, or other public, private, or non-profit sources, acquisition by purchase or eminent domain, building code modifications, changes in applicable zoning regulations, or relaxation of the provisions of this ordinance sufficient to mitigate the undue economic hardship. The Board of Appeals shall report such finding and plan to the Environmental Management Administrator. The Environmental Management Administrator shall cause to be issued an order for such property to be repaired within the time specified, and in accordance with the provisions of the recommended plan.

#### h. Investigation of Conditions of Neglect.

The town designates the Environmental Management Administrator to investigate petitions and make findings.

#### i. Appeals

Findings made by the Environmental Management Administrator or by the Planning & Zoning Commission may be appealed to the Board of Appeals. To perfect such an appeal, application must be filed by an aggrieved party with the Board of Appeals within ten days following receipt of the order for repair of the property or determination. Appeals from the Board of Appeals shall be in the nature of certiorari.

#### j. Other town or county powers.

Nothing contained within this Ordinance shall diminish the town's or county's power to declare a building as unsafe or a violation of the minimum building code.

#### 1. Penalties and remedies.

Enforcement of this Ordinance may be by either one or more of the following methods, and the institution of any action under any of these methods shall not relieve any party from any other civil or criminal proceeding prescribed for violations and prohibitions:

a. Equitable remedy. The Town may apply for any appropriate equitable remedy to enforce the provisions of this article.

b. Order of abatement. The Town may apply for and the court may enter an order of abatement. An order of abatement may direct that improvements or repairs be made, or that any other action be taken that is necessary to bring the property into compliance with this Ordinance. Whenever the party is cited for contempt by the court and the Town executes the order of abatement, the Town shall have a lien, on the property for the cost of executing the order of abatement.

c. Civil penalty. No civil penalty shall be levied unless and until the Environmental Management Administrator (or a designated agent) shall deliver a written notice by personal service or by registered mail or by certified mail, return receipt requested, to the person responsible for each violation indicating the nature of the violation and ordering corrective action. The notice shall also set forth the time period when corrective measures must be completed. The notice shall state that failure to correct the violation within the specified time period will result in the assessment of civil penalties and other enforcement action. If after the allotted time period has expired and after the hearing of any appeal by the board of adjustment, and no corrective action has been completed, a civil penalty shall be assessed in the amount of \$50.00 per day of continuing violation. The fine will be allocated to town projects in the districts.

## Section 9.05 Fees

5.0 The fees charged for the purpose of administering the ordinances regarding the subdivision of land and zoning in the Town of Burkittsville shall be those same fees as established and adopted by the County.

## Section 9.06 General Regulations

6.0 Establishment of Districts

For the purposes of this ordinance, all land within the Town of Burkittsville is hereby designated on the zoning map as being one (1) of the following use districts:

HV - Historic Village

AG - Agricultural

#### 6.1 Boundaries of Districts

Unless otherwise indicated on the zoning district maps, the boundary lines of the districts follow lot lines, center lines of streets, alleys, or such center lines extended, center line of creeks or the corporate limit line as existing at the time of adoption of this ordinance or measured line.

#### 6.2 Application of Regulations

No building or land shall hereafter be used, and no building or part thereof shall be erected, moved, or altered unless for a use expressly permitted by and in conformity with the regulations for the district in which it is located.

#### 6.21 Zoning of Annexed Areas

All territory which may hereafter be annexed to the Town shall from time of annexation be considered as being in the AG District until changed by ordinance, unless the resolution of annexation by the Town Council provides for other district classification other than (a) AG or (b) a district classification of some property abutting, contiguous, or adjacent thereto, in which case the Town Council shall: 1) refer the matter to the Commission for recommendation and report, and if the Commission makes no report within ten (10) days from the date the Council refers it to the Commission, it shall be considered to have made a report approving the proposed annexation and district classification, and (2) hold a public hearing in relation thereto, giving at least thirty (30) days notice of the time and place of such hearing in a newspaper published in or having a general circulation in the Town of Burkittsville. Nothing in this section or ordinance is intended to act nor shall it act to circumvent or supersede the requirements of the Annotated Code of Maryland, Article 23A, Section 19, governing Annexations, or the limitations on rezoning of annexed land as set forth in Article 23A, Section 9(c).

#### 6.22 Location of Zoning Line in Vacated Street

Whenever the Town Council vacates a street or alley, adjacent districts shall extend to the center line of the vacation.

#### 6.23 Required Open Area Not to be Infringed Upon

Yards, parking space or lot area required for one (1) building may not be used for another main building nor may the size of a lot be reduced below the requirements of this ordinance.

#### 6.3 Continuance of Non-Conforming Uses

Any lawful use of land or structures existing at the time of the adoption of this ordinance may be continued if approved by the Board of Appeals with the following limitations:

#### 6.31 Substitutions

If no structural alterations are made, a non-conforming use of a building may be changed to another non-conforming use provided that the use is less intensive than the existing non-conforming use, (e.g. requires less parking, or promotes less traffic, people, noise, signs, hours of operation, etc.). Whenever a non-conforming use has been changed to a more restricted use or to a conforming such use shall not thereafter be changed to a more intensive use.

#### 6.32 Extensions

When authorized by the Board of Appeals, the extension of a building devoted to a non-conforming use upon a lot occupied by such building or on a lot adjoining may be made, provided, however, that the floor area of such extension or addition shall not exceed, in total, fifty percent (50%) of the floor area of the existing building or buildings devoted to a non-conforming use, as such building or buildings existed at the time of the adoption of this ordinance and provided that such extension or addition shall be undertaken within ten (10) years of the effective date of this ordinance or any amendment by which the use of such building became non-conforming.

The extension of a non-conforming use throughout those parts of a building which were manifestly designed or arranged for such use prior to the effective date of this ordinance may also be authorized by the Board of Appeals.

#### 6.33 Conditions and Requirements by the Board of Appeals

In authorizing substitutions or extensions, the Board may require the installation, operation and maintenance in or in connection with the substitution or extension, of such devices and methods of operations as may, in its opinion, be reasonably required to prevent damage to adjacent properties and neighborhoods and prevent conditions which may become obnoxious or offensive. In authorizing a substitution or extension, subject to compliance with certain conditions, the Board may require a written agreement, guarantee or bond naming the Town of Burkittsville as the beneficiary or secured party (as it may deem necessary to insure the conditions stipulated by the Board are being and will be complied with). Any such written agreement may be required by the Board to be recorded among the Land Records of the County at the expense of the applicant.

#### 6.34 Prohibited Uses in all Districts

- a) Mobile homes and mobile home parks,
- b) Storage, manufacture, processing, assembly of explosives, fireworks, or incendiary devices.
- c) Junk cars, abandoned or discarded appliances, building materials, and other objects considered as junk or refuse by the Administrator.
- d) Crematoriums.
- e) Tanneries, rendering plants and/or stockyards.
- f) Restaurants with drive through aisles or windows or walk up service windows.
- g) Automobile or vehicle repair facilities and/or mechanics shops.
- h) Gasoline service stations.

- i) Taverns, pubs, bars, lounges and/or night clubs.
- j) Intensive Swine Farms, which for purposes of this section are defined as facilities, buildings or land used for the breeding, raising, feeding and/or care of two hundred fifty (250) or more animals of the porcine species.
- k) Billboard signs.
- l) Any use not specifically permitted by this ordinance shall be considered prohibited unless approval is given by the Board of Appeals where authorized elsewhere in this Article.

## Section 9.07 Signs

### 7.0 Signs

The Zoning Administrator shall have the authority to review the shape, aesthetics of, location, and day and night visibility of signs and number of signs on any property, provided any limitations listed in this section shall not be exceeded or waived, according to these regulations. Anyone who wishes to erect a sign within the Town shall submit an application therefore to the Administrator, which application shall contain a sketch of the proposed sign, its dimensions and its proposed location as well as any proposed lighting or illumination of the proposed sign. This application shall then be subject to final approval by the Planning Commission as part of the site plan approval process.

7.10 The erection of any sign shall require a zoning certificate, except for sections c, e, f, g, and h below.

The following signs are permitted in any district according to the provisions of this ordinance.

- a) A personal service sign for professional office or a home occupation; unlighted or indirectly lighted not to exceed two (2) square feet in size.
- b) A farm sign, not exceeding six (6) square feet in size, displaying the name of the owner, nature of the farm and advertising only those products produced on the premises on which such sign is displayed.
- c) A temporary real estate sign, not exceeding six (6) square feet in size, advertising sale or lease only of the premises on which such sign is displayed.
- d) A sign identifying a non-profit organization and giving directions thereto, containing no commercial advertising, not exceeding ten (10) square feet in size.
- e) A temporary sign noting an event of general interest such as a locally sponsored carnival, such signs to be removed within ten (10) days after the event. The date of the event must be noted upon the sign. No temporary sign shall be erected for more than thirty (30) consecutive days, nor for more than a total of thirty (30) days in any calendar year.
- f) Temporary political signs. Such signs to be removed within three (3) days after the election. No such political sign shall be erected more than sixty (60) days prior to such election.



g) Any sign erected by the Town of Burkittsville, county or state for the purpose of traffic control or direction.

h) A bulletin board on churches, schools, public and civic building property, not over thirty (30) square feet in area.

i) Signs, directional, informational, or warning in character, not including business signs and involving no advertising and each not exceeding six (6) square feet in area.

7.20 Business signs which call attention to a business service, or industry conducted on the premises upon which the sign is located are permitted, subject to the approval of the Zoning Administrator.

a) No signs may extend over a building line or pedestrian right-of-way more than three (3) feet. Signs shall be placed at a minimum height of seven (7) feet above the ground or sidewalk measured from the bottom of the sign, unless it is attached flat against a building or bottom of the sign does not project over the building line or pedestrian right-of-way.

b) All signs on or in front of a building shall be immobile, non-flashing, and in no way resemble traffic signals or other warning devices. Indirectly lit signs, during business hours only, are permitted solely if shielded so as not to directly shine on adjoining properties, and or roadways.

c) The total area for all signs on an individual, commercial, or industrial premises shall not exceed twenty-five (25) square feet, with no individual sign exceeding eight (8) square feet.

d) All sandwich boards, advertising flags, banners, etc. shall be displayed only during business hours, and shall count as part of the total twenty-five (25) square feet of all signs on a property.

e) All free-standing signs shall be placed as to allow ample visual sight lines for driveways, street and alleys leading into intersecting thoroughfares. Free-standing signs are signs attached to a pole planted in the ground.

f) In no case shall any sign attached to a building project above a roof line.

g) In no case shall a free-standing sign exceed fifteen (15) feet in height above average grade of the site.

## Section 9.08 Agricultural (AG) District

### 8.0 Purpose

It is the purpose of the Agricultural (AG) District (previously known as and referred to as the Rural Residential (R) District) to establish a low density rural area that will compliment and preserve the rural, agricultural character of the community and to ensure that enough land area will be available for each dwelling site, so that alternative locations for on-site septic and waste disposal systems will be available, thereby negating the necessity for public infrastructure improvements and public sewer and wastewater treatment facilities. It is the further intent and purpose of the Agricultural (AG) District, to preserve agricultural and environmentally sensitive areas and natural resources.

### 8.1 Uses Permitted in the Agricultural (AG) District

- a. Farms, customary farm buildings and operations.
- b. Single-family dwellings.
- c. Churches, schools, libraries, museums, parks, playgrounds, and community centers, provided that sufficient off-street parking is available for the use.
- d. Accessory buildings and uses.

### 8.2 Uses permitted by Special Exception (Requiring Board of Appeals Approval) in the Agricultural (AG) District

In addition to the requirements set forth in Section 2.31 governing Special Exceptions, the following additional conditions shall apply for the following specific uses:

- a. Nursery schools or childcare centers, provided that it meets the requirements of the Maryland Department of Health and Mental Hygiene and any special conditions deemed necessary by the Board, and provided that all required licenses and permits have been obtained.
- b. Home Occupations, including the office of a resident physician, dentist, architect, engineer, attorney, or similar professional person located in that person's home, provided:

- 1. That there is no exterior evidence, other than one (1) permitted sign, to indicate that the building is being used for any purpose other than that of a residential dwelling.
- 2. That the construction does not produce a show window or display window effect.
- 3. Sufficient off-street parking is provided.
- 4. That the use will not constitute a nuisance because of increased traffic, noise, or other activity associated with the use of the dwelling for business purposes which may be disruptive to the residential character of the neighborhood.
- 5. Only one (1) person who is not a resident of the dwelling may be employed in conduct of the home occupation.
- 6. The home occupation must be secondary to the principal use as a residential dwelling, shall be conducted entirely within the dwelling, and shall not occupy more than thirty percent (30%) or three hundred (300) square feet of the dwelling, whichever is greater.

- c. Social, service, civic or fraternal clubs and lodges.
- d. Convenience stores, provided:

1. That there is no drive through aisle or drive up service window, no walk-up service window, and no outdoor seating area.
2. That there is no outdoor sound amplification.
3. That the hours of operation are limited to between the hours of 6:00 a.m. until 9:00 p.m.
4. That sufficient off-street parking is provided, which shall include a minimum of one (1) parking space per one hundred (100) square feet of the building space.
5. That no exterior lighting of any parking lot or area shall be permitted during non-business hours, nor shall any exterior lighting be located or directed so as to shine on or illuminate any adjoining properties.

### 8.3 Building Height Regulations in Agricultural District

No dwelling shall exceed two and one-half (2-1/2) stories or thirty-five (35) feet in height, measured from the lowest point of the exposed building foundation to the highest point of the roof, excluding, however, any chimneys, church steeples, barns or silos.

### 8.4. Required Lot Area. Lot Width, and Yards in Agricultural (AG) District

Min. Lot Area per Dwelling Unit	Min. Lot Width per Structure (feet)	One Front Yard Depth (feet)
Each Side Yard (feet)	One Rear Yard (feet)	

5 acres	100	35	15	40
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at building line

### 8.5 Subdivision

Subdivision of any lot in the Agricultural (AG) District will be permitted only as follows: a minor subdivision of five (5) lots and a remainder will be permitted to be subdivided off of an original tract of land, provided that each such lot meets the minimum lot requirements. Thereafter, the land or property will be required to be rezoned before any additional dwellings, other than farm tenant houses, may be built. An original tract of land shall be as described in the Land Records of Frederick County, Maryland as of January 1, 2003.

## Section 9.09 Historic Village District

### 9.0 Purpose

It is the purpose of the Historic Village (H V) District to preserve structures of historic and architectural value together with the appurtenances and to preserve environmentally sensitive areas, natural resources, and environmental settings. The further purpose of this section is: (1) to safeguard the heritage of the municipal corporation by preserving the district therein which reflects elements of its cultural, social, economic, political, and architectural history; (2) to stabilize and improve property values in such a district; (3) to foster civic beauty; and (4) to strengthen the local economy.

## 9.1 Uses Permitted

The following uses shall be permitted in the Historic Village District.

- a) Residential uses: single-family dwellings and two-family dwellings.
- b) Antique shop, hand craft shop, general merchandise store, home occupation, the professional office of a resident doctor, dentist, real estate agent, engineer, architect, attorney, or similar professional person located within that person's dwelling provided:
  - 1. That there is no exterior evidence, other than one (1) permitted sign, to indicate that the building is being used for any purpose other than that of a dwelling.
  - 2. That the construction does not produce a show window or display window effect.
  - 3. At least two (2) off-street parking spaces shall be provided for newly constructed principal buildings.
  - 4. In the case of a home occupation, the following additional conditions shall apply in addition to those set forth above:
    - i. That the use as a home occupation will not constitute a nuisance because of increased traffic, noise, or other activity associated with the use of the dwelling for business purposes which may be disruptive to the residential character of the neighborhood.
    - ii. Only one (1) person who is not a resident of the dwelling may be employed in conduct of the home occupation.
    - iii. The home occupation must be secondary to the principal use as a residential dwelling, shall be conducted entirely within the dwelling, and shall not occupy more than thirty percent (30%) or three hundred (300) square feet of the dwelling, whichever is greater.
- c) Public buildings such as post office, town hall, community building, church, parish hall and other such structures of a cultural, recreational, or administrative type.
- d) Restaurants or eating establishments having a floor area of less than one thousand five hundred (1,500) square feet, and where the food is consumed on the premises and entirely within the principal structure.
- e) Other uses similar to those mentioned above that the Board of Appeals finds to be consistent with the spirit and intent of the Historic Village District.

## 9.2 Special Exception - Requiring Board of Appeals Approval

In addition to the requirements set forth in Section 2.31 governing Special Exceptions, the following additional conditions shall apply for the following specific uses.

- a) Restaurants having a floor area greater than one thousand five hundred (1,500) square feet, provided that they meet the following conditions:
  - 1. Food is consumed on the premises and entirely within the principal structure.

2. There is provided one (1) parking space for everyone hundred (100) square feet of floor area over one thousand five hundred (1,500) square feet.
3. A site plan illustrating the on-site parking, traffic circulation, landscaping, and collection and disposal of garbage, trash, debris, and refuse, is approved by the Board of Appeals.
4. Approval of any signs is granted by the Planning and Zoning Commission.
- b) Restaurants, provided:
  1. That there is no drive through aisle or drive up service window, no walk-up service window, and no outdoor seating area.
  2. That there is no outdoor sound amplification.
  3. That the hours of operation are limited to between the hours of 6:00 a.m. until 9:00 p.m.
  4. That sufficient off-street parking is provided.
- c) Convenience stores, provided:
  1. That there is no drive through aisle or drive up service window, no walk-up service window, and no outdoor seating area.
  2. That there is no outdoor sound amplification.
  3. That the hours of operation are limited to between the hours of 6:00 a.m. until 9:00 p.m.
  4. That sufficient off-street parking is provided, which shall include a minimum of one (1) parking space per one hundred (100) square feet of the building space.
  5. That no exterior lighting of any parking lot or area shall be permitted during non-business hours, nor shall any exterior lighting be located or directed so as to shine on or illuminate any adjoining properties.

### 9.3 Lot Requirements

The following minimum lot requirements shall apply in the Historic Village (HV) District.

- a) Lot width must be at least sixty (60) feet (excepting lots of record).
- b) A building fronting along Main Street must be no further from the right-of-way of Main Street than the structure on the adjoining property, which is closest to the right-of-way of Main Street, unless permitted by a variance granted by the Board of Appeals.
- c) Lot area per dwelling unit: a minimum of one (1) acre for each dwelling unit to be located on the lot.
- d) Side yard: zero (0) feet.
- e) Rear yard: twenty (20) feet.

## Section 9.11 Exceptions and Modifications

### 11.0 Lot of Record

When a lot which is an official lot of record at the time of adoption of this ordinance does not comply with the area, yard or other requirements of this ordinance, an application may be submitted to the Board of Appeals for a variance from the terms of this ordinance in accordance with the procedure outlined in Section 2.22 and the requirements for variances under Section 2.30. Such a lot may be used as a building site, provided, however, that the yard and other requirements of the District are complied with and in accordance with the requirements for the granting of variances in Section 2.30.

### 11.10 Exceptions to Yard Requirements

#### 11.10 Allowable Projections of Structure into Yards and Other Exceptions to Yard Requirements

Architectural features of buildings such as windowsills, cornices, roof overhangs, and unenclosed porches or decks, may project into required yards by no greater than six (6) feet. Open fire escapes, fireproof outside stairways, chimneys and flues may project into the required yard not more than six (6) feet. Ground floor terraces or patios may extend into the rear yard, not, however, to within six (6) feet of either side lot line.

#### 11.11 Side Yards Not Required for Second Story Residential Uses in Non-Residential Structures

Side yards shall not be required for residential dwellings erected above commercial structures.

#### 11.12 Allowable Projections of Accessory Buildings into Yards

One (1) story accessory buildings may project into yards provided that (a) the building does not occupy more than thirty percent (30%) of the rear yard; (b) when more than ten (10) feet from the building and sixty (60) feet from the front yard, it may project into the side or rear yards providing it projects no closer than six (6) feet to the side or rear lot lines; (c) garage accessory buildings entered from an alley or street in the case of double frontage lots, are not closer than ten (10) feet to the street or alley line.

#### 11.13 Allowable Projections of Fences into Yards

Fences may be constructed in or project into required yards provided that (a) no fence or planting more than three (3) feet high shall be located within thirty-five (35) feet of a street intersection; (b) no fence more than four (4) feet high may be located closer to the front of the lot than the principal building; and (c) no fence more than eight (8) feet high shall be allowed on any part of the lot.

### 11.20 Exceptions to Height Limitations

#### 11.20 Public and Semi-Public Buildings May Exceed Height Limitations

Public buildings, churches, temples, may exceed the height limit to a maximum height of seventy (70) feet provided all yards required in the particular district are increased one (1) foot for each two (2) feet in excess of the height limitation.

#### 11.21 Architectural or Mechanical Appurtenances That May Exceed Height Limitations

Chimneys, church steeples, barns and silos, and monuments may exceed the maximum height limitations.

#### 11.22 Storage Buildings Need Not Comply with Story Limitations

Storage buildings are exempt from the story limitations (but not the "number of feet" limitation).

### Section 9.12 Zoning Certificates

#### 12.0 Required

It shall be unlawful to commence the excavation for or the construction of any building, including accessory buildings, or to commence the moving, alteration, or change of use of any land or buildings, including accessory buildings, until the Administrator has issued a zoning certificate for such work or use.

#### 12.01 Issuance and Application

In applying to the Administrator for a zoning certificate, the applicant shall submit a plat in duplicate, drawn to scale, showing the name of the person making application, the actual dimensions of the lot to be built upon as shown by a plat plan, the size, shape and location of the building to be erected, and such other information as may be necessary to provide for the enforcement of this ordinance. This section is also applicable to the construction or erection of signs.

12.02 If the proposed excavation, construction, moving, alteration or use as set forth in the application is in conformity with the provisions of this ordinance and other ordinances of the Town, the Administrator shall issue a zoning certificate for the application.

12.03 If a zoning certificate is refused, the Administrator shall state such refusal in writing, with the reason or reasons. The certificate shall be granted or denied within thirty (30) days of the date of the application. A record of the application, plats and action thereon shall be maintained in the Town office.

#### 12.04 Administrator Not to Waive Ordinance Requirements

Issuance of a zoning certificate for construction or excavation not conforming to requirements of this ordinance shall not be construed as waiving any provisions of this ordinance.

#### 12.05 Zoning Certificate May Be Void

A zoning certificate shall become void one (1) year (365 days) from date of issuance unless the project is more than twenty-five (25%) percent completed as determined by the Administrator.

#### 12.06 Reserved

#### 12.07 Zoning Violation

Whenever a violation of this ordinance occurs or is alleged to have occurred, any person may file a written complaint. Such complaints, stating fully the causes and basis thereof and including the name, address, and telephone number of the complainant, shall be filed with the Administrator. The

Administrator shall review such complaints and immediately provide for the investigation of said complaint and if a violation is found, he is empowered to take any necessary action to abate the violation as provided herein.

If the Administrator or his duly authorized agent shall find that any of the provisions of these regulations are being violated he shall notify the owner of the property in writing on which such violation has occurred, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of the illegal use of land, building or structure, he shall order removal of illegal buildings, structure or of additions, alternative of structures or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action to insure compliance or to prevent such violation.

The Administrator or his duly authorized agent shall allow a reasonable time period to comply with the notice and correct or abate the violation. Upon non-compliance a summons may be obtained by the Administrator, charging violation of Article IX of the Town Code.

#### 12.08 Same — Injunctions, Etc. to Prevent Violations of Chapter

In case any building is or is proposed to be located, erected, constructed, reconstructed, altered, repaired, converted, maintained or used or any land is or is proposed to be used in violation of this chapter or an amendment or supplement thereto, the Town Council, the Town Attorney, the Board of Appeals, the Planning Commission or any adjacent or neighboring property owner who would be specifically damaged by such violation, in addition to other remedies provided by law, may institute in junction, mandamus, abatement or any other appropriate action or proceeding to prevent restrain, correct or abate such unlawful location, erection, construction, reconstruction, alteration, repair, conversion, maintenance or use to prevent the occupancy of such building or land or to any illegal act, conduct business or use in or about such premises.

#### 12.09 Same Penalty: Continuing Violations

It shall be unlawful to locate, erect, construct, reconstruct, enlarge, change, maintain or use any building or land in violation of any regulation in or any provision of this chapter or any amendment or supplement thereto lawfully adopted by the Town Council or fail to comply with any reasonable requirement or condition imposed by the Board of Appeals. Any person violating any regulation in or any provision of this chapter or of any amendment or supplement thereto shall be subject to enforcement as set forth in Section 25.0.

### Section 9.16 Purpose of Subdivision Regulations

16.0 In order to assist the subdivider in harmonizing his interests with those of the Town of Burkittsville, and finding it to be in the best interests of the Town of Burkittsville, the following regulations are adopted in order that adherence to the same will bring results that are beneficial to both parties. It is deemed necessary to establish minimum standards for the design and development of all new subdivisions in order to eliminate piecemeal planning, ensure sound community growth, assure and



safeguard the provision of quality and adequate public facilities, protect the interests of the homeowner, the subdivider, and the Town of Burkittsville.

16.01 It shall be the duty of the Burkittsville Planning and Zoning Commission and the Town Council to require compliance with all regulations set forth in this ordinance before granting approval to subdivisions as defined herein. It is the purpose and intent of this ordinance to establish regulations and requirements for the platting of land which the Town Council of Burkittsville deems necessary for the health, safety, and general welfare of the citizens.

#### 16.02 Jurisdiction

In accordance with the authority granted by Article 66B of the Annotated Code of Maryland, as amended, this ordinance is adopted by the Town of Burkittsville, Maryland, governing the subdivision of all lands within the corporate limits of the Town.

### Section 9.17 General Requirements

#### 17.0 Subdivider Must Prepare and Record Plat of Subdivision

From and after the adoption of these regulations, any owner of any tract of land located in the Town of Burkittsville, who creates a sub-division, shall cause a plat of such subdivision to be made in accordance with the regulations set forth herein and the provisions of Article 66B of the Annotated Code of Maryland. After having secured the approval thereof by the Planning and Zoning Commission, the subdivider shall cause a copy of the said plat to be recorded in the office of the Land Records of Frederick County, Maryland. Any subdivision or portion thereof which may be in the process of development, but which has not had a plat of subdivision recorded at the time of adoption of these regulations, shall also be subject to the requirements and procedures contained herein.

#### 17.1 Approval of Plat Required

No plat of any subdivision shall be recorded until it shall have been submitted to and approved by the Planning and Zoning Commission as provided herein. The Planning and Zoning Commission shall not approve said plat unless it is satisfied that the applicant has complied with these regulations.

##### 17.1.1 Plat of Public Taking

Where a property has not been the subject of a recorded subdivision plat and has been divided by a road which existed prior to January 1, 2003, or by construction of a new public road by any governmental agency, such property is to be considered a lot of record or original tract of land; provided that the bearings and dimensions of the lot created must be described by a survey plat of lot created by public taking and submitted to the Planning Commission for approval.

As used herein the term "public use" shall mean property that is dedicated, deeded to or maintained by the local, state or federal government, for alley, street or road purposes.

A survey plat of lot created by public taking consists of a survey plat with the following additions:

- a. "Plat of lot created by public taking" in title block.
- b. A note stating "This lot is a lot of record because of public taking."
- c. A note to the clerk of the court stating the plat complies with this paragraph signed by the Chairman of the Burkittsville Planning and Zoning Commission.
- d. Whenever a proposed lot which is to be created by public taking includes or abuts streets designated on the master highway plan section of the comprehensive development plan, the Planning Commission shall require, by dedication to public use, full right-of-way dedication as prescribed in the subdivision regulations along the frontage of both the lot of public taking and that of the remainder from which the lot of public taking was derived. Improvements to lands dedicated when creating a lot by public taking will not be required.
- e. A certification and dedication by the owner or owners of the property to the effect that the lot created by public taking as shown on the plat is made with his consent, and that it is his desire to record the plat.

#### 17.2 Annexation

Any subdivision having a portion of its platted land located outside the corporate limits of the Town of Burkittsville cannot have that portion of land approved by the Burkittsville Planning and Zoning Commission unless that land is annexed into the Town of Burkittsville in accordance with the requirements of Article 23A, Section 19, of the Annotated Code of Maryland, or unless that subdivision is also approved by the Frederick County Planning Commission or other appropriate agency for the portion of the platted land located outside of the Town corporate limits.

#### 17.3 Transfer of Land: Zoning Certificate

No lot in a subdivision created after the adoption of these regulations shall be transferred, sold, or offered for sale, nor shall a zoning certificate be issued for a structure thereon, until a Final Plat of such subdivision shall have been recorded among the Land Records of Frederick County, Maryland in accordance with these regulations.

#### 17.4 Penalties

Any subdivider who violates these regulations shall be subject to the penalties prescribed in Section 5.05 of Article 66B, Annotated Code of Maryland, as amended from time to time.

#### 17.5 Discrepancy

Whenever there is a discrepancy between the minimum standards or dimensions contained herein and those contained in the zoning ordinance or other official regulations of the Town of Burkittsville, Frederick County or other applicable governmental agencies, the more strict standards shall apply.

## Section 9.18 Procedure

### 18.0 Meet Minimum Requirements

In planning and developing a subdivision, the subdivider or his agent shall comply with the several principles of design and minimum requirements for subdivisions and improvements as set forth in these regulations and in every case he shall observe the procedures set forth herein.

### 18.1 Submission of Preliminary Plan of Subdivision for Approval

18.11 The subdivider shall prepare a preliminary plat of the proposed subdivision conforming with the requirements set forth in these regulations. At least thirty (30) days prior to a regularly scheduled meeting of the Planning and Zoning Commission, the plat along with five (5) black line or similar prints of the plat shall be filed with the Planning and Zoning Commission, along with a list of the names and addresses of adjoining property owners; however, if a State road is involved, three (3) additional prints shall be provided.

18.12 RESERVED.

18.13 The preliminary plat will be reviewed for conformity with the Comprehensive Plan, the Town zoning ordinance, and other applicable provisions, and the principles, standards, and requirements hereinafter set forth. Copies will be referred to any county or State officials who may be concerned with public improvements or health requirements.

18.14 At its regular meeting the Planning and Zoning Commission shall approve or disapprove the preliminary plat, or may approve it subject to specific conditions, changes, or modifications. Reasons for disapproval will be noted on the plat or by letter. No plat shall be approved that is in conflict with these subdivision regulations, or with any part of an officially adopted feature of the Town Comprehensive Development Plan.

18.15 Adjoining property owners shall be notified by mail at least fifteen (15) days prior to the Planning and Zoning Commission meeting when said plat will be reviewed, that a subdivision of the adjoining land has been submitted. A notice of said meeting containing the agenda to be discussed shall be advertised in a newspaper of general circulation in the County at least fifteen (15) days prior to the meeting.

### 18.20 Improvement Plans

Upon approval of the preliminary plat, the subdivider shall prepare and submit to the Planning and Zoning Commission plans for the installation of improvements in accordance with all other requirements of these regulations. Copies of such improvement plans will be referred by the Planning and Zoning Commission to the appropriate Town, County, and State officials for review and approval, subject to such changes or conditions as in their judgment may be required.

### 18.21 Approval of Final Plat

The final plat shall conform substantially to the preliminary plat as approved, and, if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which he

proposed to record and develop at the time, provided however, that such portion conforms to all requirements of these regulations.

18.22 Any substantial deviations from the preliminary plat that were not recommended or approved previously by the Planning and Zoning Commission must be resubmitted for their approval.

18.23 The subdivider shall file with the Planning and Zoning Commission at least two (2) weeks prior to its regular meeting a final plat drawn with ink on mylar for signature and ultimately four (4) mylar prints of the final plat, and four (4) paper prints of the final plat to be distributed as follows:

4 mylar prints	—3 County Clerk
	—1 Town Planning Commission
4 paper prints	—1 Town Planning Commission
	—1 State Road
	—1 County Health Department
	—1 County Planning Commission

18.24 If it is found by the Planning and Zoning Commission that the final plat is in conformance with all applicable regulations, it shall approve the plat and obtain the signature of the chairman on the plat. The signature of the chairman shall mean that the Planning and Zoning Commission is satisfied that the plat complies with the requirements of these regulations. Reasons for the disapproval of any plat shall be stated upon the records of the Planning and Zoning Commission.

#### 18.25 Recording Final Plat

If approved, the applicant shall submit an original reproducible plat along with the necessary recording fee to the Administrator. The Administrator shall secure the Commission chairman's or secretary's signature and promptly record the plat. Any recording fees shall be the responsibility of the applicant.

Duplicate copies of the signed plat shall be made, if necessary, by the Administrator at the applicant's expense for distribution in accordance with Section 18.23.

## Section 9.19 Design Standards

19.0 The standards of design herein contained are intended only as minimum requirements, and the developer shall use standards consistent with the site conditions so as to assure a high-quality, pleasant, durable neighborhood.

#### 19.01 Improve Adverse Physical Conditions

The subdivision of land subject to flooding by a fifty (50) year storm as determined by the standards set by the Maryland Department of Natural Resources or its successor will not be approved. A plat of a

proposed subdivision located in an area having poor drainage or otherwise adverse physical or topographical conditions may be approved, provided the subdivider agrees to make such improvements as in the judgment of the Town Council render the subdivision substantially safe and otherwise acceptable for residential use, and furnishes a performance bond or gives other guarantee satisfactory to the Town Council, sufficient to cover the cost of such improvements as estimated by the officials having jurisdiction.

#### 19.10 Street Design Standards

- a. The use of dead-end streets and cul-de-sacs shall be discouraged.
- b. Where such is not shown on the Brunswick Regional Master Plan, the arrangement of streets in a subdivision shall either:
  1. Provide for the continuation or appropriate projection of existing principal streets; or
  2. Conform to an approved plan for the neighborhood or have a plan approved by the Planning and Zoning Commission to meet a particular situation where topographical or other considerations not apparent or discovered at the adoption of the Brunswick Regional Master Plan make the previously approved streets impracticable.
- c. Where a subdivision abuts or contains an existing or proposed street, the Commission may impose requirements concerning streets, access drives, reverse frontage lots, or any other such requirements as may be necessary to preserve the character of the neighborhood.
- d. Alignment
  1. Street jogs with center line offsets of less than one hundred twenty-five (125) feet shall be avoided.
  2. When connecting street lines deflect by more than ten (10) degrees and not more than forty-five (45) degrees, they shall be connected by a curve with a radius of not less than one hundred (100) feet.
  3. The radii of curves on the center lines shall not be less than the following:
    - a. Local access streets: one hundred fifty (150) feet.
  4. Between reverse curves on streets there shall be a tangent at least one hundred (100) feet long.
  5. Minimum sight distance shall be one hundred fifty (150) feet.
- e. Alleys
 

Alleys may be approved where deemed appropriate by the Planning and Zoning Commission.
- f. Grades
  1. Grades will not be less than one-half (1/2) of one percent (1%) in order to promote proper drainage. Unless approved by the Planning and Zoning Commission, grades shall not exceed ten percent (10%).

2. All changes in grade shall be connected by vertical curves of sufficient radius to provide smooth transition and proper sight distances.

3. Grades at the point of intersection of two (2) streets shall be three percent (3%) or less for a distance of thirty (30) feet in all directions from the point of intersection.

g. Half-Width Streets

Subdivisions adjoining dedicated, reserved, or platted and recorded half-width streets or alleys shall dedicate or reserve an additional right-of-way width sufficient to bring the overall street to the width requirements of this ordinance.

h. Private Streets

Driveways leading to individual lots or driveways leading to common parking areas shall not be considered public streets; however, their design and construction shall require approval by the Planning and Zoning Commission.

i. Street Names

Street names shall be subject to approval by the Planning and Zoning Commission and Frederick County. Names shall not duplicate or closely approximate existing street names in the Town or County except for extension of existing streets.

j. Right-of-Way Width: Pavement Width

Minimum widths for the right-of-way of streets, alleys and easements shall be as follows (additional widths may be required where deemed necessary):

	ROW (feet)	Pavement (feet)
Local Access		
Single-Family	50	20
Easements (utility)	6	--

Easements (drainage) such width as the Planning and Zoning Commission finds is necessary based upon storm drainage plans prepared by an engineer licensed in the State of Maryland and in accordance with all Frederick County and Town regulations.

k. Curbs

Curbs shall be provided in accordance with State Highway Administration Standards in effect at the time for any new or required reconstructed street accessing onto either MD Route 17 or Main Street. Curbs on all other streets shall be built to the Frederick County Standard for local access streets as such standards exist at the time of plat approval.

l. Design Cross-Section and Street Standard

New streets or reconstructed streets shall be built to the Frederick County Standard for local access streets as such standards exist at the time of plat approval.

m. Intersections

1. Street intersections shall be as nearly at right angles (i.e. ninety (90) degrees) as is possible and in no case shall be less than sixty (60) degrees (requirements for intersection with State roads shall not be less than seventy (70) degrees or greater than one hundred ten (110) degrees). The block corner of street intersections shall be rounded on the right-of-way line with a curve having a radius of not less than twenty-five (25) feet.

2. Intersections of more than two (2) streets at a point shall be prohibited.

19.20 Building Lines

Building lines shall be shown on the plat, along each as required in each case by the applicable zoning regulations. The locations of these lines shall be clearly indicated by dimensions.

19.30 Easements

Easements shall be provided for utilities on all lot lines other than those abutting a street right-of-way line and shall be centered on rear or side lot lines. Such easements shall be designed to provide continuity from block to block.

An easement running along the property line shall be a minimum of six (6) feet on each side of the line.

19.40 Lot Design Standards

a) Corner lots shall have widths sufficient to meet the yard requirements of such lots as required in the zoning ordinance.

b) All lot measurements shall be net measurements, not including any part of any street, alley, or cross-walkway. Easements, however, shall be regarded as within the lot.

c) Panhandle lots shall be discouraged. If approved, panhandle lots shall meet all State, County and public safety requirements.

## Section 9.20 Improvements

20.0 All improvements in a subdivision shall conform with these minimum standards and specifications, and other requirements which may be adopted by the Town or Frederick County, or by such other governmental agencies which may have jurisdiction over each facility, as stipulated below. Nothing contained herein, however, shall be construed as prohibiting a subdivider from installing improvements of a greater standard or quality than the minimum standards required herein.

20.10 General

a) Street Improvements — Agricultural (AG) District

The subdivision of more than five (5) lots and a remainder off of an original parcel of land in the AG District shall require that the subdivision be served by a street meeting the full standards for right-of-way, paving, curb and gutter, drainage and other improvements adopted by the County from the subdivision to MD Route 17 (Potomac Street) or Main Street.

The above requirement applies to both newly platted streets or the use by the subdivider of an existing Town street. In the case of an existing Town street, it shall be the subdivider's responsibility to bring the street up to the minimum standards necessary to serve the proposed subdivision development.

b) Street Improvements — Historic Village (H V) District

Because of the existing narrow streets in the Historic Village District and the fact that homes encroach upon right-of-way normally required for new streets, the Planning and Zoning Commission shall have the authority to determine whether a proposed subdivision in the HV District can utilize a particular street for access and to what degree improvements must be made to the existing street that is proposed for such use.

c) All engineering services necessary for the installation of streets and any water and sewer service will be provided by the developer with the approval of the Town.

d) All new streets shall be graded and drained, base material applied, surface treatment applied, and utilities installed, all in accordance with the standards of design and construction adopted by Frederick County and in effect at the time of plat approval.

## 20.20 Water Facilities

Every lot in a subdivision shall be provided with an individual private water supply.

## 20.21 Septic/Waste Facilities

Every lot in a subdivision shall be provided with a complete sanitary septic system for disposal of waste. Sand mound septic systems shall not be permitted.

## 20.22 Drainage

Every subdivision shall be provided with storm drains, culverts, drainageways, or other facilities adequate to collect and dispose of all water originating on or flowing across the property, without inundating, eroding or damaging roads, lots, or other properties. The construction of these facilities shall be in conformity with the standards and specifications adopted by Frederick County and in effect at the time of plat approval.

## 20.23 Topsoil



Topsoil shall not be removed from residential lots or used as spoil, but shall be redistributed to its former depth and in all cases, good soil conservation practices shall be used to prevent soil erosion and siltation during and after subdivision development.

#### 20.24 Street Signs

A street name sign shall be erected by the Town at the developer's expense at each new street or road intersection.

#### 20.25 Monuments and Pipes

Permanent monuments shall be placed, as required for markers in the Annotated Code of Maryland. After the grading is completed, the subdivider must ensure that monuments are placed at the proper locations. Iron pipes shall be set along the property line of all streets and roads at points of intersection, curvature or tangency, and at such points along the subdivision boundaries not already marked by monuments.

#### 20.26 Street Lighting

All street lighting shall be approved as to design by the Town and installed by the Town at the expense of the developer.

#### 20.27 Utility Lines

All utility lines and cables must be installed and buried below grade. No overhead or above ground utility lines, cables, wires or poles shall be permitted.

#### 20.30 Improvement Plan

Plans for improvements shall be prepared by a registered licensed professional engineer for review by the appropriate public authorities prior to construction. Such plans shall be sufficient to show the proposed location, sizes, type, grades, and design features of each facility, including the following:

##### a) Profiles

Profile of each street center line, with grades (including projections beyond the subdivision boundaries where significant), and showing any water and sewer lines, manholes, culverts, streams, etc. Scale: 1 inch to 50 feet horizontal, 1 inch to 5 feet vertical.

##### b) Cross-Sections

Typical street cross-sections for all streets, at a scale not smaller than 1 inch to 5 feet. Where considerable cuts or fills are required, special cross-sections shall be shown on the plan. A grading plan showing existing and proposed contours may be furnished in lieu of special cross-sections.

##### c) Sanitary and Storm Drains

Location plans and profiles for proposed sanitary and storm sewers or drains, with grades and pipe sizes indicated.

#### 20.31 Inspection and Acceptances

All construction work on improvements required herein shall be subject to inspection during and upon completion of construction by an authorized engineering representative of the Town. Approval and acceptance may be made by such representative on behalf of the Town, if found to be in accordance with the approved plan and these regulations.

20.31 If the final inspection is not made within sixty (60) days after improvements are completed and a written request for inspection has been submitted by the developer, the said improvements will be deemed approved and the Town Council shall accept them by duly executed deed.

## 20.40 Guarantee of Improvements

### 1. General Requirements

The Mayor and Town Council of Burkittsville, Maryland are required to approve a suitable guarantee prior to the signing of a final subdivision plat in order to insure construction by the developer of those public improvements shown on any final plat or improvement plans covering the same area of the final plat, should such public improvements not have already been constructed.

### 2. Type of Guarantee

The Mayor and Town Council have designated two (2) types of guarantees which may be acceptable in lieu of actual construction of improvements prior to the recording of the final plat. These include:

- i. money placed in escrow payable to the Town; and
- ii. a Cash Bond or Letter of Credit. An escrow account or bond will be required in an amount equal to one hundred percent (100%) of the cost of said improvements plus a contingency of one hundred fifteen percent (115%) for inflation and shall be in the form of either a properly executed bond or letter of credit by a federal or state lending institution licensed, insured and located in the State of Maryland, with authorization to pay to the Town the cost of said improvements in the event of the default of the developer.

### 3. Procedure

Prior to the filing of a final plat which shows thereon any new streets, or whose area is served by public improvements required to be supplied by the developer, a certification of the cost of such streets and/or improvements shall be filed by an authorized agent of the Town with the Town Council after his notification of the intent of the developer. Such cost estimate shall be transmitted to the developer in person, mail, or by agent with instructions on procedure for filing such bond. Upon receipt of a bond, it shall be approved by Legal Counsel to the Town Council and thereafter the Planning and Zoning Commission shall be notified in writing of the acceptance and filing of the bond or guarantee.

A record shall be kept by the Town Council showing the bonds in force as well as those which have been released after construction and acceptance of the improvements by the Town.

No bond or guarantee shall be released until a written acceptance of the improvements constructed is presented, made by the Town, and until the Town Council shall have entered such acceptance into the official minutes.

## Section 9.21 Plat Requirements

### 21.0 General Style and Form

#### a) Drawing

It shall be legibly and accurately drawn on mylar sheets no larger than 20" x 24" in size, and at a scale of 1" to 5()', or 1" to 100', depending upon the size and nature of the subdivision. If more space is needed, additional sheets may be used.

#### b) Meeting Platting Requirements

It shall conform in all respects to the requirements of Article 66B, Section 5, of the Annotated Code of Maryland, which relates to the making, filing, and recording of plats. Among other things, the Article above requires that plats for recording must be surveyed and certified by a registered surveyor.

#### c) Title Information

1. Subdivision name.
2. Location by election district, city or county and state.
3. Names and addresses of the owners of record, the subdivider, and the engineer or surveyor.
4. Scale, date, and north point.
5. A map to scale showing location in County and Town.

### 21.10 Graphic Information

#### a) Boundaries

Exact boundaries of the area included within the subdivision with dimensions to hundredths of a foot and bearings to half minutes. These boundaries shall be determined by an accurate survey in the field, which shall be balanced and closed with an error of closure not to exceed one (1) in five thousand (5,000).

#### b) Topography at a two (2) or five (5) foot contour interval.

#### c) Bearings and Distances

Bearings and distances to the nearest recorded property corners or other monuments which shall be located or accurately described on the plat.

#### d) Monuments

The accurate locations and descriptions of all permanent monuments. Where applicable and feasible the coordinates of all permanent markers or monuments should be based on the Maryland Coordinate System, (Lambert Conformal Conic Project, adopted by Act of General Assembly 1939, Chapter 628).

#### e) Adjoining Owners

Names and locations of adjoining subdivisions and the locations and ownership of adjoining unsubdivided property.

f) Adjoining Roads

Exact locations, width, and name of each existing or recorded road or street adjoining or intersecting the boundaries of the tract.

g) Engineering Data

The exact location and width of every road, street, alley, easement, or other public or private way within the tract, with the length and bearing of every tangent, length of arcs, radii, internal angles, point of curvature, and any other necessary engineering data; with the names of such ways, and the purpose of easements or other ways. Accurate location of every lot line with its dimension to hundredths of a foot and bearings to minutes.

h) Street Names

A name must be given to all new streets, drives, and alleys.

i) Setback Lines

Minimum building setback lines on all lots.

j) Numbering

Blocks lettered in alphabetical order, and lots numbered in numerical order.

k) Public Lands

Accurate outlines of any areas dedicated or reserved for public use, or for any other purpose except sale, with the purpose indicated.

l) Lot Area

Accurate area of each lot or parcel, other than public ways.

m) Municipal Lines

Accurate location of the municipal or district line traversing or closely related to the tract.

n) Drainage Lines

Existing and relocated courses of any water courses traversing the tract, with the right-of way or easement lines provided therefore.

## 21.20 Certificates and Other Information

a) Owner's Certificate

Owner's certificate, signed and notarized, acknowledging ownership of the property and agreeing to the subdividing thereof as shown on the plat; also offering for dedication all streets and other ways and places intended for public use.

b) Engineer's Certificate

Certificate of the surveyor to the effect that the plat represents a survey made by him, that all monuments and pipes indicated thereon actually exist and their locations and descriptions are correctly shown, and certifying compliance with the requirements of these subdivision regulations and other applicable laws.

c) Agencies Approvals

A space shall be provided for Certificate of Approval by the Chairman of the Planning and Zoning Commission. In case any part of the subdivision is located within the jurisdiction of the County, an additional space would be provided for Certificate of Approval by the Chairman of the County Planning Commission.

d) Restrictive Covenants

Restrictive covenants which apply to all areas as shown by the recorded plat shall be referenced as part of the recorded plat.

1.30 Approval Period

All approved plats shall remain in force and effect for a period of three (3) years.

## Section 9.22 Modifications and Exceptions

22.0 The Planning and Zoning Commission does not have the authority to waive these regulations, except as specifically modified and amended by a zoning text amendment approved by the Mayor and Council.

## Section 9.23 Saving Clause

23.0 If any section of this Article is found to be unconstitutional or illegal by the Court, the said section will cease to be effective or enforced until an amendment is made and adopted by the Mayor and Council.

## Section 9.24 Appeal

24.0 Any party adversely affected by a decision of the Planning and Zoning Commission may appeal such decision to the Circuit Court of Frederick County, Maryland in accordance with the Maryland Rules.

## Section 9.25 Enforcement

### 25.1 Enforcement

- a) The Administrator shall investigate any written complaint alleging a violation of this Ordinance to determine whether a violation has occurred.
- b) Upon a finding by the Administrator of a violation, the Administrator shall give written notice to the property owner stating the nature of the violation and ordering such actions necessary to correct and remedy the violation.
- c) If after ten (10) business days from the time specified in the written notice for compliance with the Ordinance the violation has not been corrected or a plan of correction approved by the Administrator, the Administrator shall issue a citation to the owner.
- d) Violations of the Ordinance shall constitute a municipal infraction, subject to a penalty of a fine in an amount not to exceed One Thousand Dollars (\$1,000.00).
- e) The Town of Burkittsville may, at its discretion, recover damages in a civil action pursuant to the Annotated Code of Maryland, Article 66B, Sections 7.01 and 7.02 as amended, to correct violations of this Ordinance.

## Section 9.26 Ordinance No. 1 – 2002 An Ordinance regulating the erection, maintenance and repair of "Fences", codified at Burkitt. Code 5.8(c).

- 1) Fences subject to regulation. The Mayor and Council of the Town of Burkittsville legislate these rules for the erection, maintenance and repair of "Fences." The purpose of this Ordinance is to conform Town law to the most recent Comprehensive Plan and to promote cordial and neighborly relations among Town citizens, See, e.g., Town of Burkittsville, Maryland, Comprehensive Plan, 1996-2016 (1997) at 5, 14-16, 38. As such, this Ordinance outlines the rules for the demarcation of private and public property by reinforcing existing property laws of the State of Maryland.
- 2) Fence Rules. When preparing to erect a fence, the following rules shall apply:
  - A. No permits shall be required for the repair of an existing fence as long as the repair does not alter the existing demarcation line of the fence.
  - B. The existence of subground post remains shall not be regarded as a fence for the purposes of rule 5.8(c)(2)(A), immediately above.

C. It is preferred that fences be located on, or close to, the property line and that fences be of a style acceptable to both adjoining landowners. Town citizens erecting fences are to use historically appropriate fence styles, i.e., picket, plank or other types of fencing made of wood, stone, pagewire, cast iron, etc. See, e.g. Town of Burkittsville, Maryland, Comprehensive Plan, 1996-2000 (1997) at 5.

D. See, also, Section 11 ("Exceptions and Modifications"), Burkittsville Planning Regulations 23 (Town of Burkittsville, Reprint 1993) (setback modifications for fences), codified as 5.9(f) Burkitt. Code.

3) Fences to be regulated. Fences may be erected on the front, side and rear yards in all zoning districts. This Ordinance regulates only fences bounding the property line of an Applicant. The term "Applicant" shall include all property owners within the Town, and the Mayor and Town Council when authorizing the erection of fences on Town property.

4) Applying for a Fence Permit. No fence shall be erected within the Town's jurisdiction prior to the issuance of a Fence Permit by the Burkittsville Planning and Zoning Commission (BP&Z). A Fence Permit Application can be obtained from the Commission's Zoning Administrator. The BP&Z must act on the permit application within 45 days from submission. The application shall include:

A. A signed statement that the Applicant has called "Miss Utility" to confirm the absence of critical infrastructure (electric, cable, telecom) in areas where digging will occur.

B. Confirmation that the line to be fenced has been prominently marked with stakes at intervals of no more than twenty-five (25) feet.

C. A plat of the property to be fenced, with the proposed fence line marked in some color ink other than that of the plat itself.

D. As an act of courtesy, it is recommended that any property owner constructing a fence, consult neighbors affected by the location, visual and height effect, and style.

5) Execution of Fence Permit. The original (1) and one (1) copy shall be filed with the Zoning Administrator. No fee shall be required for the Fence Permit. The completed Application shall be received by the Zoning Administrator.

A. If the Applicant chooses to locate the fence on the property line, he or she shall file with the Zoning Administrator, a properly-certified survey denoting the property line, or, in the alternative, letters from adjoining property owners confirming an agreed upon boundary.

B. If the property line is in dispute, it will be the responsibility of the Applicant to obtain a properly certified survey at their expense to confirm the location of the improvement.

C. It shall be unlawful for any person to erect or install any electrically charged fence, barbed wire fence (including concertina wire, razor wire, or any similar device), or chain-link fence, except through a variance based on the need to retain farm animals and upon proof that the fence will not be hazardous to life.

D. All fences must be installed with the smooth side or most finished side facing out towards the adjacent property.

6) Adjoining Landowners. Applicants must certify that adjoining property owners have been duly notified of the proposed fence construction.

7) Hazards and obstructions. Fences shall not be of materials or design which would cause physical hazards to pedestrians, nor shall they obstruct the proper vision of vehicular traffic at intersections and crosswalks. All gates to fences permitted under this Ordinance shall open into the Applicant's property. No gate shall be permitted to block or obstruct a Town (public) right-of-way.

8) Repair & Maintenance. The labor and costs of maintenance and repair of fences shall be assumed by landowners erecting the fence. After sufficient notification to the property owner, fences which encroach upon the Town (public) right-of-way and which prevent Town officials and agents from performing their duties (such as snow removal) or which are not properly maintained, are subject to tear-down and removal at the cost of the property owner.

9) Superseded Laws. All Town Ordinances or parts of Ordinances in conflict with this Section are hereby repealed to the extent of such conflict. Specifically, but not entirely, the following "Definitions", Section 1.10, Town of Burkittsville Planning & Zoning Regulations 2(1993) are hereby amended:

A. Building. A structure designed primarily for the permanent shelter, support or enclosure of persons, animals, or property of any kind.

B. Environmental Management Administrator. The administrative officer of the Town, otherwise known as the "Zoning Administrator", charged with administering the regulations governing development.

10) Failure of Government. No individual is exempt from the provisions of this Section by reason of any failure on the part of the Mayor, the Council, or their agents.

11) Penalty. Any person violating or failing to comply with this section or any provision thereof, shall, on conviction, forfeit and pay a fine of not to exceed Five Hundred (\$500.00) Dollars, excluding costs of enforcement through the courts. Adjudged offenders shall be responsible for the Town attorneys' fees and court costs. The Mayor and Council may, upon discovering activity not in accordance with this Ordinance, apply to the Maryland courts for relief against the offending party.



Section 9.27 Ordinance No. 04 – 2002 An Ordinance regulating "Code Enforcement", codified at Burkitt. Code § 1.22.

- a) Purpose. This Ordinance establishes municipal procedures for the processing of citizen complaints falling under Town ordinance infractions in every category except for those passed pursuant to Article 66B of the Maryland Code. Complaints and applications under Ordinances promulgated pursuant to Article 66B shall be processed according to the Planning & Zoning Regulations of the Town of Burkittsville, codified at Burkitt. Code, Art. 5 ("Land Use, Planning, Preservation & Restoration")
- b) Applicability. This Ordinance shall apply to all municipal infractions of Ordinances for which a "Penalty" has been proscribed. It shall not apply to criminal offenses under State or county law; all municipal infractions are civil offenses. All ordinances containing a clause are prima facie municipal infractions.
- c) Written Complaints, Only. No Town official may entertain or act upon an oral complaint. To be a valid complaint pursuant to the laws of Burkittsville, the complainant must identify the property and the condition complained of, in writing, and present it to the Town Council by First Class Mail or in person at the regularly scheduled Town Meeting .
- d) Council Review and Disposition. Once a non-Article 66B complaint is filed, the Town Council shall review the complaint at a workshop or the very next Town Meeting. By resolution of the Town Council, the complaint will either be (1) deemed insufficient to trigger an infraction under the Town Code or (2) deemed sufficient to forward to the Town's Code Enforcement Officer for investigation and, if necessary, the issuance of a citation.
- e) Issuance of Citation. Citations shall be delivered by the Code Enforcement Officer to the resident complained of, and a copy, of the Citation shall be posted for public inspection on The Burkittsville Bugle. Another copy of the Citation shall be filed with the Mayor. Citations shall include:
  - 1) Name and address of person charged;
  - 2) The nature of the infraction, including a cite to the Ordinance offended;
  - 3) The location and time of infraction;
  - 4) The amount of the infraction fine assessed and the amount that shall be due upon failure to make timely payment;
  - 5) The manner, location and time in which the fine may be paid to the municipality; and
  - 6) The right of the accused to elect to stand trial for the municipal infraction.
- f) Reserved
- g) Remediation, and/or Mediation. Upon the issuance of a citation, the resident complained of shall have sixty (60) days to remedy the infraction and/or pay any associated fine(s). The Code Enforcement Officer may attempt mediation of the issue and an informal resolution of the problem, to

the satisfaction of the Council. At the first Town Meeting following the expiration of the sixty (60) day grace period, the Code Enforcement Officer shall recommend either (1) extension of the grace period or (2) civil action pursuant to the terms of the offended Ordinance. The Town Council must approve, by resolution, an extension or civil action and forward such resolution to the Mayor. No extension shall be granted without the presentation of a compliance plan, signed by the resident complained of, and giving specific dates for correction of a problem. No formal hearings shall be heard on the issuance of a citation.

h) Election to Stand Trial. A person who receives a citation for an infraction may elect to stand trial before the Maryland courts. Notice of trial election must be given to the Mayor and Council within five (5) days of the first Town Meeting following the expiration of the sixty (60) day grace period. Upon receipt of such notice, the Mayor and Council shall forward a copy of the election of trial to the Maryland courts.

i) Failure to Remedy Issued Complained Of; Failure to Pay Fine. Fifteen (15) days following the failure to pay fines, the fines shall double. Upon failure of the person complained of to remedy the problem and/or pay the associated fine(s), the Town may proceed to the issuance of a Notice of Violation. The Notice of Violation is the Town's indication that it is taking an infraction to the Maryland courts.

j) Notice of Violation. If the Citation does not lead to compliance, the Officer – following approval of the Council – shall issue a Notice of Violation to the person complained of. The violation of any Town Code provision not specifically declared to be punishable as a municipal infraction may be evidenced by the issuance of a Notice of Violation as an alternative to arrest or obtaining of a warrant for such violation. The Code Enforcement Officer witnessing the violation shall be authorized to issue such Notice of Violation to the person complained of provided that the person consents voluntarily, in writing, to accept such Notice of Violation and to appear in court as provided herein.

k) Contents, Notice of Violation. The Notice of Violation shall contain and specify:

- 1) The violation – citing the Ordinance – with which the person complained of is charged;
- 2) The hour, date, location of the court for the county in which such person will be summoned to appear.
- 3) A place in which the person may endorse the notice by signing his or her name and address, indicating his or her receipt thereof and willingness to appear.

l) Rejection of Service. If the person does not willingly consent to the issuance of the Notice of Violation, the Code Enforcement Officer – based on the previous approval of the Council – shall proceed to request an arrest warrant in the manner provided by law. Upon issuance of the arrest warrant, the Mayor shall liaison with the Sheriff of Frederick County, to arrange for arrest. The Code Enforcement Officer shall make his proof of service to the court within thirty (30) days. Failure to make the proof of service shall not affect the validity of the Notice of Violation.

- m) Civil Action. If civil action is taken and awards assessed by the Maryland courts, costs shall be remitted to the Town treasury, attorneys' fees shall be paid to the attorneys, and fines shall be exacted against the resident complained of in the form of a lien against the offending property.
- n) Tilly Frank Proviso. In the event that any valid law, rule, or regulation of any governing authority having jurisdiction – including but not limited to the State of Maryland and the County of Frederick – contravenes the provisions of this Section, the provisions herein shall be superseded by any such valid law, rule or regulation only to the extent that the provisions herein are in conflict or contrary to any such law, rule or regulation.
- o) Superseded Laws. All Town Ordinances or parts of Ordinances in conflict with this Section are hereby repealed to the extent of such conflict. Specifically, but not entirely, the following “Definitions”, Section 1.20 Town of Burkittsville Planning & Zoning Regulations 2 (1993) are hereby amended and/or added:
- p) Failure of Government. No individual is exempt from the provisions of this Section by reason of any failure on the part of the Mayor, the Council, or their agents.
- q) Penalty. Any person violating or failing to comply with this section or any provision thereof, shall, on conviction, forfeit and pay a fine of Five Hundred (\$500.00) Dollars, excluding costs of enforcement through the courts. Adjudged offenders shall be responsible for attorneys' fees and court costs. The Mayor and Council may, upon discovering activity not in accordance with this Ordinance, apply to the Maryland courts for relief against the offending party.

#### Section 9.28 Ordinance No. 03 – 2001 An Ordinance regulating the “Demolition” of permanent structures

- 1) Demolition subject to partial regulation. The Mayor and Council of the Town of Burkittsville hereby legislate these rules regulating the demolition of structures, including homes and outbuildings greater than 150 square feet. The purpose of this Ordinance is to conform Town law to the Comprehensive Plan of 1997 and thereby promote the preservation of the Town 's housing stock. See, e.g. Town of Burkittsville, Maryland, 1996-2016 (1997) at 5. As such, this Ordinance protects both the availability of housing in the Town and the health and safety of Town citizens when structures require demolition. Nothing in this Ordinance shall preempt County jurisdiction over this matter. The requirements herein are in addition to the Demolition permit process supervised by the Frederick County Office of Permits and Inspections.
- 2) Owners of property in the Town shall consult with Landmarks of Frederick County, a 501 (c) (3) not-for-profit organization, or a successor non-profit of similar mission, to ascertain whether the structure can be rehabilitated or preserved in a cost-effective manner. In the event the building cannot be treated as such, the property owner shall discuss appropriate means of recycling historically- important components of the property. No solution offered by Landmarks of Frederick County shall be binding on the property owner.

- 3) Following the completion of Section 9.28 (2), property owners shall present their Demolition request, accompanied by the findings of the not-for-profit organization, to the Mayor & Council. The Mayor and Council shall review evidence of compliance with Section **9.28 (2)**, supra, and shall make a finding that this Ordinance has been complied with. The Mayor and Council shall also hear the property owner's plans for expeditious removal of the debris and shall ensure that provisions are in place to remove the demolished structure within thirty (30) days of destruction. The demolition site shall be ringed in yellow cautionary tape throughout demolition. No heavy construction or industry vehicles shall be parked on Main Street or block any Town Alley during the demolition process. Individual notice shall be supplied to each home or property owner within 500 yards of the demolition.
- 4) If the demolition request is approved by the Mayor & Council, the property owners shall apply for a Zoning Certificate. The Zoning Certificate must be issued prior to applying for a County Demolition Permit.
- 5) Tilly Frank Proviso. In the event that any valid law, rule, or regulation of any governing authority having jurisdiction — including but not limited to the State of Maryland and the County of Frederick — contravenes the provisions of this Section, the provisions herein shall be superseded by any such valid law, rule or regulation only to the extent that the provisions herein are in conflict or contrary to any such law, rule or regulation.
- 6) Superseded Laws. All Town Ordinances or parts of Ordinances in conflict with this Section are hereby repealed to the extent of such conflict. Specifically, but not entirely, the following "Definitions" are hereby amended: None.
- 7) Failure of Government. No individual is exempt from the provisions of this Section by reason of any failure on the part of the Mayor, the Council, or their agents.
- 8) Penalty. Any person violating or failing to comply with this section or any provision thereof, shall, on conviction, forfeit and pay a fine of Five Hundred (\$500.00) Dollars, excluding costs of enforcement through the courts. Adjudged offenders shall be responsible for attorneys' fees and court costs. The Mayor and Council may, upon discovering activity not in accordance with this Ordinance, apply to the Maryland courts for relief against the offending party.

## Section 9.29    Ordinance No. 01 – 2001 Public Attendance

- a)        Open Invitation. At any open session of the Mayor and Town Council, the people of Burkittsville, their neighbors in the lee of South Mountain, and the general public are invited to attend and quietly observe.
- b)        No General Right to Participate. Except in instances when the Mayor and Town Council expressly invites public testimony, questions, comments, or other forms of public participation, or when public participation is mandated by law, group identified in supra, may participate in the session.

c) **Public Notice.** Public Notice for the Town of Burkittsville shall be a posting on the Burkittsville Bugle or announcement, by the Mayor, at a Town meeting at which the local press attends.

d) **Public Complaints.** Complaints to the Mayor and Town Council shall be address to the Mayor, as presiding officer, alone, and shall not be fashioned so as to constitute assault against persons present at the open session. Persons expecting action on a Complaint shall reduce it to writing, giving their full name, address, and phone number. Such complaints shall be addressed to the Town Clerk and shall be mailed to the Town's business address.

### Section 9.30 Ordinance No. 01 – 2001 Disruptive Conduct

a) **No Prerogative, or Right, to Disrupt.** A person attending an open session of the Mayor and Town Council may not engage in any conduct—including visual demonstrations, waving of placards, signs, or banners—which disrupts the session or that interferes with the rights of the people of Burkittsville, their neighbors in the lee of South Mountain, and the general public to attend, listen, and observe the open session.

b) **Finding of Disruption.** The Mayor may, at his discretion, make a finding that an individual is disrupting an open session of the Mayor and Town Council. Upon this finding, the Mayor shall release the gavel five (5) times and announce his finding to the assembly. The labeling of a person attending an open session with words of profanity, or the "calling out" of such a person into the courtyard for the purpose of fighting or dueling shall constitute a finding of disruption forcing the Mayor to gavel.

c) **Motion to Eject the Miscreant.** Once the Mayor has made a finding of disruption, any member of the Council may move for ejection of the miscreant disrupting the assembly by stating, "Mr. Mayor, I call to Orders of the Day through ejectionment." If the motion is duly passed by a unanimous vote of the quorum present, the Mayor shall instruct the attending Sheriff's Deputy to remove, the miscreant from the Assembly. In the absence of a Sheriff's Deputy, the Mayor shall recess the Town Meeting and set a time to reconvene the open session.

### Section 9.31 Ordinance No. 01 – 2001 Recording, Photographing, and Broadcasting of the Open Session.

a) **Quiet Recording Devices, Permitted.** The people of Burkittsville, their neighbors in the lee of South Mountain, and members of the general public (including media industry employees), may record discussions of the Mayor and Town Council at an open session by means of a tape recorder or other recording device if the device does not create excessive noise disturbing the Mayor and Town Council, or other persons present at the open session.

b) **Conditional Photography, Permitted.** The people of Burkittsville, their neighbors in the lee of South Mountain, and members of the general public (including media industry employees), may

photograph discussions of the Mayor and Town Council at an open session by means of any type of camera, if the camera:

- 1) requires no bright lights capable of disturbing the Mayor and Town Council, and/or persons attending the open session;
  - 2) does not create excessive noise that disturbs the Mayor and Town Council, and/or persons attending the open session;
- c) Conditional Broadcasting, Permitted. Employees of the media industry may film and broadcast the Mayor and Town Council if the equipment:
- 1) requires no bright lights capable of disturbing the Mayor and Town Council, and/or persons attending the open session;
  - 2) does not create excessive noise that disturbs the Mayor and Town Council, and/or persons attending the open session;
- d) Restriction of Persons Using Devices. At his or her discretion, the Mayor may restrict the movement of a person using a recording device, television camera, camera or other broadcasting equipment if such restrict is necessary to maintain the good order of the open session.

#### Section 9.32 Ordinance No. 01 – 2001 Recording Not Record.

A recording of the open session by the people of the town of Burkittsville, their neighbors in the lee of South Mountain, shall not be a record of the open session so recorded.

## Article XIV. Property Regulations

### Section 14.01 Private Responsibilities

#### 14.10 Property Maintenance

For the purposes of this section, the following provisions and definitions shall be applicable to all zoning districts within the Town of Burkittsville and, where applicable, further specific provisions for certain zoning districts shall carry.

#### 14.11 Definitions

**COMPOST PILE.** A confined area on a residential property, the nature of which is primarily used for the staging of various decayed or decaying organic substances such as decomposed vegetation, leaves, grass clippings, plant remains, coffee grounds, vegetable skins, certain fruits, starches, certain dairy products, charcoal, non-toxic or non-hazardous ash and other materials. Such a confined area shall be in the form of either an kept pile, bin, box or other suitable means of storage and shall be used for fertilizing soil in a non-commercial use only, primarily on-premises.

**DISABLED OR INOPERATIVE VEHICLE.** Any motor vehicle, including farming equipment, balers, tractors, lawn mowers – both riding and push operated – or any All-Terrain Vehicle (ATV), or snowmobile in one place for ten days or more and subject to any one or more of the following conditions.

- a. It has no engine or transmission;
- b. It has two or more flat tires;
- c. One or more windows are missing or broken;
- d. It has become a breeding place for insects, snakes, rats, or other vermin.

**GARBAGE.** Waste matter that is discarded consisting of the residue of animal, fruit, or vegetable matter, resulting from the preparation, cooking, handling, or storage of food, exclusive of human or animal feces. Not included in this definition is compostable material, the nature of which is used for on-premises, residential use.

**HAZARDOUS MATERIAL.** Any substance or material in a quantity or form that may pose an unreasonable risk to health and safety of property, including any material designated by the United States Department of Transportation as belonging to a hazard class, and including any explosive, flammable substance, corrosive substance, or radioactive substance.

**HISTORIC VEHICLE.** Any vehicle that meets the definitions of historic vehicle under State law, including any vehicle that: (i) is 25 years or older and has not been substantially altered from the manufacturer's original design, or (ii) has a unique interest or historic value including makes of motor vehicles no longer manufactured and models of motor vehicles produced in limited or token quantities and no longer manufactured.

**JUNK VEHICLE.** Any automobile, truck, van or other motor vehicle, boat or trailer which:

- a. Is unregistered or unlicensed; or
- b. Displays tags assigned to another vehicle; or
- c. Is disabled or inoperable.

**LITTER.** All rubbish, waste matter, ashes, refuse, garbage, trash, debris, dead animals, or other discarded, hazardous or toxic materials of every kind or description.



**REFUSE.** Garbage, rubbish, junk (including, but not limited to any discarded items being stored in public view including, but not limited to old newspapers, broken furniture, etc.) industrial waste, dead animals, and all other solid waste materials, including salvable waste.

**RUBBISH.** All refuse other than garbage, whether combustible or noncombustible, including, but not limited to the following: rubbish from building construction or reconstruction, dead trees, uprooted tree stumps, slash (debris of trees from felling, wind, or fire), rubble, street refuse, abandoned automobiles (including, but not limited to abandoned cars, trucks, vans, or other motor vehicles, or abandoned boats or trailers), machinery, vehicular parts, tires, bottles, cans, waste paper, cardboard, sawdust piles, slash from sawmill operations, and all other waste material.

**STRUCTURE.** That which is built or constructed, including without limitation, building for any occupancy or use whatsoever, fences, signs, billboards, fire escapes, stairways, chute escapes, railings, water tanks, towers, open grade steps, sidewalk tents or anything erected and framed of component parts which is fastened, anchored or rests on a permanent foundation on the ground.

**TIRES, UN-RUNNABLE.** A composite circular object that is rubberized and customarily used in conjunction with the protection of automobile and vehicular wheels, but which has outlived its useful lifecycle and is no longer suitable to utilize for its customary use, but which may still be in a stable condition and therefore serve a secondary purpose – specifically for agricultural purposes – in order to keep tarpaulins held and secured in place.

**TOXIC MATERIAL.** Any substance that can be poisonous if inhaled, swallowed, or absorbed into the body through cuts, breaks in the skin, ingestion, or bodily contact.

**WEEDS OR GRASS.** All bushes, hedges, shrubs, grasses, poison oak, poison ivy or any other non-cultivated vegetation which attains a noxious or dangerous condition upon growth or accumulation so as to constitute a menace to public health or a fire hazard. A generalized growth of grasses poison oak, poison ivy, poison sumac or other non-cultivated vegetation exceeding a height of twelve (12) inches is presumptively a noxious and dangerous conditions. A generalized growth of bushes, hedges and shrubs extending into the vertical plane of any public way or abutting premises is presumptively a noxious and dangerous condition. In addition to these noxious weeds, the following are included in this definition as banned noxious weeds: Johnson grass, Shattercane, Split cane, Thistle (Bull, Canada, Musk, Plumeless) and invasive running bamboo. Not included within this definition are trees, flowers, garden vegetable, non-invasive bamboo, compost piles or any plant necessary for soil stabilization purposes (i.e. for the purposes of retarding or preventing soil or sediment erosion).

YARD. An open unoccupied space on the same lot with a building.

#### 14.12 Dwelling Units

a) It shall be unlawful for the owner of a dwelling unit or his designated agent or lessee to fail to maintain the structure and its exit ways in a safe and sanitary condition at all times. Every dwelling shall be kept sanitary, clean and free from any accumulation of rubbish, garbage or similar matter, and shall be kept free from vermin or rodent infestation. It shall be the duty of each occupant of the dwelling unit to keep in a clean condition that portion of the property which he occupies or over which he has exclusive control.

b) The exterior of any dwelling unit and its appurtenances shall be maintained in a safe and sanitary condition in accordance with the relevant provisions of the Code of the Town of Burkittsville and with the provisions of Article II and Article III of the Code of Frederick County, Maryland entitled "Unsafe Buildings" and "Minimum Livability Code" respectively. Where conflicts arise in the interpretation of any single provision, the most stringent and severe shall be applied.

#### 14.13 Yards

a) It shall be unlawful for the owner of a yard or his designated agent or lessee to fail to maintain the yard free from all unsafe, hazardous or unsanitary conditions. Every yard shall be kept sanitary, clean and free from any accumulation of rubbish, garbage, refuse, hazardous or toxic material, and human and animal waste (excluding bona fide fertilizers as regulated or defined by the Maryland Department of Agriculture).

b) Non-runnable tires that are regularly utilized for agricultural purposes only in the Agricultural Zoning District only may be permitted so long as they meet all of the following conditions:

- 1) Are primarily used to secure tarpaulins in place when used for agricultural storage; and
- 2) Are not permanently stockpiled; and
- 3) Are not used in a manner that is deleterious to public health or safety; and
- 4) Are maintained in such a condition that they do not degrade and are not permitted to smolder, melt, severely puncture or present favorable conditions for the breeding and/or housing of rodents, vermin, insects, snakes, or other disease-carrying animals.

c) Accumulation of woody debris and yard waste. Yard waste and woody debris is not to be stored permanently on any property in any zoning district or stored greater than 45 days for yard waste nor

greater than 120 days for woody debris and shall be disposed of in a manner consistent with the recommended practices of the Mayor and Council or the Frederick County Department of Utilities and Solid Waste Management, or its agent or successor. Where and when the storage of any woody debris is permitted in Article XIV, it shall not be permitted to be stored at any time in the front yard of any property in any zoning district. By definition, firewood is not considered to be woody debris.

d) Nothing in this section shall prohibit the creation and maintenance of a residential compost pile or bin on a property in any zoning district when it is at least 30 feet from a neighboring primary dwelling structure. Compost piles may not be located in the front yard of a property in any zoning district and may not cover greater than 10% of the total property area nor be permitted to accumulate to such a height of greater than 48 inches.

#### 14.14 Vacant Structures and Land

All vacant structures and premises thereof or vacant land shall be maintained by the owners free from an overgrowth of weeds and grass and in clean, safe and sanitary conditions as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

#### 14.15 Overgrowth

a) It shall be unlawful for any occupant or lessee of property, or the owner of property in the event that such property is unoccupied, to fail to cut down and remove any weeds or lawn grass exceeding a height of twelve (12) inches on any residential or non-residential lot within the Historic Village zoning district of the Town of Burkittsville. It shall be unlawful for any occupant or lessee of property, or the owner of property in the event that such property is unoccupied, to fail to cut down and remove any weeds or lawn grass exceeding a height of twelve (12) inches and extending in a vertical plane over any adjoining sidewalk or alleyway within the Town of Burkittsville.

b) Within the Agricultural zoning district native grass species, as defined and approved by the Maryland Department of the Environment and/or the Maryland Department of Natural Resources, may be permitted to grow to a maximum of 36 inches when grown within 20 feet of a stream, creek, river, pond, lake, wetlands or on the fringe of crop plantings, but must maintain a setback of at least 100 hundred feet from any property line adjacent to the Historic Village zoning district or public street, alley or easement. In all other areas of a property within the Agricultural zoning district, the provisions of Article XIV Section 1.15(a) shall apply.

#### 14.16 Littering

a) It shall be unlawful for any person or persons to dump, deposit, throw, or leave or to cause or permit the dumping, depositing, placing, throwing, or leaving of litter on any public or private property in this Town, unless:

- 1) Such property is designated by the Mayor and confirmed by the Town Council for the disposal of such litter, and such person is authorized by the Town Council to use such property;
- 2) Such litter is placed into a litter receptacle or container installed on such property;
- 3) Such person is the owner or tenant in lawful possession of such property or has first obtained written consent or is under the personal direction of the owner or tenant in lawful possession, and the act is done in a manner consistent with the provisions of this Article.

b) Leaves deposited upon the sidewalk or street pending their removal as prescribed by the Town Council are exceptions to this Section.

#### 14.17 Junk Vehicles

a) It shall be unlawful for anyone to have, possess, store or maintain a junk vehicle upon any property, whether public or private, within the corporate limits of the Town of Burkittsville, unless such vehicle or vehicles are housed or stored in a completely enclosed building, provided, that one such vehicle may be stored on a lot of record if it is completely covered by a waterproof, opaque cover securely fastened in place.

b) For the purposes of this section, idle farm equipment placed or used within the Agricultural Zoning District, shall not be considered a junk vehicle. Said equipment must be operable and shall not be stored or stalled within 50 feet from the boundary of a property within the Historic Village District.

#### 14.18 Historic Vehicles

A junk vehicle which also meets the definition of an historic vehicle may be parked or maintained within the Town of Burkittsville, without being housed or stored in a completely enclosed building, if placed behind the front building line and protected by a tight-fitting, weatherproof covering. For purposes of this code, a carport does not constitute the required covering.

#### 14.19 Vehicle Repairs

The repairing, servicing, replacement of parts, or the performance of maintenance work on a vehicle on a public street is prohibited unless completed within one (1) day after their commencement, or within ten (10) days is outside of an enclosed building on any private premises, and thereafter the vehicle upon which the repairs are made is legally operable upon any public street.

#### 14.20 Sidewalks

- a) **Public Right-of-Way Maintained Privately.** All sidewalks fronting or abutting a property adjacent to a public street or within a public right- of-way or easement shall be the sole responsibility of the property owner for its maintenance.
  
- b) **Maintenance.** All sidewalks in existence at the time of effective date of this ordinance, and chronicled and documented for file by the Environmental Management/Zoning Administrator within 15 days from the effective date, shall be compelled to maintain their sidewalks to minimum construction, engineering and maintenance standards as adopted by administrative policy by the Mayor and Council from time to time. At a minimum, sidewalks made of brick, cement, concrete or paved/macadamized asphalt shall have no interruption of pavement greater than 3 inches wide and 3 inches deep. Nor shall a heave in the sidewalk present a rise of more than 6 inches.
  
- c) Nothing in this article or section shall compel a property owner to erect or construct a sidewalk where one does not exist at the effective date of this ordinance unless such sidewalk improvements are made part of any future public works agreements entered into between the property owner and the Mayor and Council or as part of a site plan approval, final plat approval or as a condition of approval for a zoning certificate.
  
- d) It shall furthermore be unlawful for owners of any sidewalk abutting a public way to place or keep grass clippings, leaves, yard waste, rubbish, litter or weeds in excess of 12 inches at the edge of, within, alongside of the sidewalk or in any gutter or curb along a public street or alley.
  
- e) It shall be unlawful for the owner of any sidewalk abutting a public way to fail to remove any accumulations of snow and ice from same within twenty-four hours of the cessation of any precipitation.

#### 14.21 Trees and Shrubbery

- a) **Planting.**

Planting of trees, bushes, hedges, flora, fauna, shrubs or any woody vegetation shall be allowed without prejudice or permit, by a property owner or his lessee up to the surveyed property boundary and, where a sidewalk is present along any yard of the property, up to the portion of the sidewalk that does not abut the public street or alley. No plantings are to be permitted within a public right-of-way, easement or within the portion of yard that lay between the sidewalk and public street or alley without the

express written permission by way of a formal waiver agreed to by the Mayor and Council or its designated agent. Furthermore, all tree or shrub plantings shall be subject to a six (6) feet setback when adjacent to a public or private street or alley.

b) Non Obstruction of access.

1) No planting of the aforementioned natural vegetation shall be permitted to grow to such point that it impedes access and obstacle-free travel along any sidewalks, public or private streets and alleys, or public easements. It shall further be unlawful for plantings to adversely impact or come into contact with any public or private utility lines.

2) Furthermore, no planting shall infringe on any adjacent property boundaries without the consent of the adjacent property owner.

c) Upkeep.

1) Downed or felled trees must be removed within 30 days of incidence from a property in all zoning districts.

2) No dead limbs, branches, tree trunks or firewood shall be permitted within 30 feet of a neighboring primary dwelling unit.

#### 14.22 Enforcement

To enforce the provisions of Article XIV Section 1, the Mayor and Council designate the Environmental Management Administrator/Zoning Administrator to investigate violations or complaints, make findings of fact, write citations to those in violation, enact plans for remedy and further assess any infractions accordingly. Where investigating complaints or potential violations of unsafe buildings and minimum livability conditions as enumerated in Section 1.12 of this article, the Environmental Management Administrator/Zoning Administrator shall conduct the initial investigation and make findings of fact and, where it is determined that sufficient evidence exists, may request that the agent designated by the County in the relevant sections of the Code of Frederick County, Maryland assist in the enforcement of these provisions.

#### 14.23 Municipal Infractions

Any violation of the provisions of this Article XIV, Section 1.0 shall be a municipal infraction as enumerated in Article XIV, Section 2.0.

## Section 14.02 Code Violations

### Section 2.1 General Provisions

#### Section 2.11 Definitions

Municipal Infraction. The violation of any ordinance or code provision specifically declared to be punishable as a municipal infraction and not otherwise deemed to be a criminal offense under state or county law; a municipal infraction is a civil offense.

#### Section 2.12. Abatement of Public Nuisances

If any person shall fail to abate any public nuisance condition (which public nuisance condition shall include any violation of Article XIV, Sections 1.12, 1.13, 1.14, 1.15, 1.16, 1.17, 1.19 or 1.20), after receipt of the Town of Burkittsville's notice to abate within a reasonable time as may be specified in such notice, then the condition may be abated by the Town at the expense of the person named in such notice. Abatement by the Town shall not bar the prosecution of the person responsible for the condition abated.

### Section 2.2. Municipal Infraction Procedures

#### Section 2.21. Declaration of Municipal Infractions

The Town Council shall be ordinance declare the violation of which code or ordinance provisions shall be municipal infractions.

#### Section 2.22. Issuance of Citation for Municipal Infractions

Those enforcement officials authorized by the Town Council to enforce town ordinances may deliver a citation to any person alleged to be committing a municipal infraction. This includes, but is not limited to, a person appointed by the Mayor and approved by the Town Council to serve as a "Code Enforcement Officer" of the Town of Burkittsville. The issuing officer shall file copies of any such citation in the office of the Town Clerk/Treasurer.

Citations issued under this ordinance shall contain the following information:

(a) Name and address of the person charged.

- (b) The nature of the infraction.
- (c) The location and time that the infraction occurred.
- (d) The amount of the infraction fine assessed and the amount which shall be due upon failure to make timely payment.
- (e) The manner, location and time in which the fine may be paid to the Town of Burkittsville.
- (f) The right of the accused to elect to stand trial for the municipal infraction.

#### Section 2.23. Payment of Fine

The fine is payable by the recipient of the citation to the Town Clerk/Treasurer within twenty (20) calendar days of receipt of the citation.

#### Section. 2.24. No Formal Hearing

The Town shall not conduct any formal hearing for those persons in receipt of a citation for a municipal infraction. Any offender so cited may pay the fine as indicated in the citation or elect to stand trial for the offense. This provision shall not prevent an offender from requesting, either personally or through an attorney, additional information concerning the municipal infraction.

#### Section 2.25. Election to Stand Trial

A person who receives a citation for an infraction may elect to stand trial for the offense by giving written notice to the Town Clerk at least five (5) days prior to the date by which payment shall be required under the citation. Upon receipt of such notice the Town Clerk/Treasurer shall forward to the District Court of Maryland for Frederick County a copy of the citation indicating the recipient's intention to stand trial.

#### Section 2.26. Failure to Pay Fine

Upon failure of a person to pay the fine noted on the citation when required, the Town Clerk/Treasurer shall give written notice of the infraction and the recipient's of the citation's failure to pay the required fine on time. If the fine on the citation has not been satisfied within fifteen (15) days from the date of the notice from the Town Clerk/Treasurer, the recipient of the citation shall be liable for an additional fine not to exceed twice the original fine. If the recipient of the citation has not made payment of the fine noted thereon within thirty-five (35) days from the date of the notice from the Town Clerk/Treasurer, the Town may request adjudication of the case in the District Court of Maryland for Frederick County, which shall thereupon schedule the case for trial and summon the recipient of the citation to appear. The recipient's failure to respond to such summons shall be contempt of court.



### Section 2.27. Rights of Accused

In any proceeding for municipal infraction, the accused shall have the right to cross-examine witnesses, to testify or introduce evidence, and to be represented by an attorney of his or her own selection and at his or her own expense.

## Section 2.3. Penalties

### Section 2.31. General Municipal Infraction Penalties

The general penalty for commission of a municipal infraction shall be fifty dollars (\$50.00) unless another fine has been enumerated.

### Section 2.32. Continuing Violations

Each day a violation of this Code or any Town Ordinance continues, shall, unless otherwise provided, constitute a separate or repeat offense.

## Article XV. Pet Waste (2017 - 01)

### Section 15.01 Purpose

An ordinance to establish requirements for the proper disposal of pet solid waste in Burkittsville, MD, so as to protect water quality and public health, safety and welfare, and to prescribe penalties for failure to comply.

### Section 15.02 Definitions

For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this Ordinance clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- a) Immediate - shall mean that the pet solid waste is removed at once, without delay.
- b) Owner/Keeper - any person who shall possess, maintain, house or harbor any pet or otherwise have custody of any pet, whether or not the owner of such pet.
- c) Person- any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

- d) Pet- a domesticated animal (other than a disability assistance animal) kept for amusement or companionship.
- e) Pet solid waste - waste matter expelled from the bowels of the pet; excrement.
- f) Proper disposal - placement in a designated waste receptacle, or other suitable container, and discarded in a refuse container which is regularly emptied by the municipality or some other refuse collector; or disposal into a system designed to convey domestic sewage for proper treatment and disposal.

### Section 15.03 Requirement for Disposal

All pet owners and keepers are required to immediately and properly dispose of their pet's solid waste deposited on any property, public or private, not owned or possessed by that person.

### Section 15.04 Exemptions

Any owner or keeper who requires the use of a disability assistance animal shall be exempt from the provisions of this section while such animal is being used for that purpose.

### Section 15.05 Enforcement

The provisions of this Article shall be enforced by the Mayor and Council of Burkittsville, MD.

### Section 15.06 Violations and Penalty

Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a fine not to exceed \$10.00 (Ten).

### Section 15.07 Severability

Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

## Article XVI. Prohibited Uses in all Districts (2008 – 01)

- a) Mobile homes and mobile home parks.
- b) Storage, manufacture, processing, assembly of explosives, fireworks and/or incendiary devices.
- c) Junk cars, abandoned or discarded appliances, building materials, and other objects considered as junk or refuse by the Administrator.
- d) Crematoriums.
- e) Tanneries, rendering plants and/or stockyards.
- f) Restaurants with drive through aisles or windows or walk-up service windows.
- g) Automobile or vehicle repair facilities and/or mechanics shops.
- h) Gasoline service stations.
- i) Taverns, pubs, bars, lounges, and/or night clubs.
- j) Intensive Swine Farms, which for purposes of this section are defined as facilities, buildings or land used for the breeding, raising, feeding, and/or care of two hundred fifty (250) or more animals of the porcine species.
- k) Billboard signs.

l) Video Lottery Facility, defined by Frederick County Code, 2004 §1-2-122 as "a facility at which video lottery terminal players play video lottery terminals." The following definitions also originate in Frederick County Code, 2004 §1-2-122. {NOTE: This provision does not apply to other gaming facilities<sup>1</sup> devices and players permitted under Frederick County Code §1-2-101.)

I) "Video Lottery Terminal" shall mean any machine or other device that, on insertion of a bill, coin, token, ticket, coupon or similar item, or on payment of any consideration:

i. is available to play or simulate the play of any game of chance in which the results, including the options available to the video lottery terminal player, are randomly and immediately determined by the machine or other device; and

ii. by the element of chance, may deliver or entitle the video lottery player who operates the machine or device to receive cash, premiums, merchandise, tokens, or anything of value, whether the payout is automatically from the device or in any other manner.

II) "Video Lottery Terminal" also includes a machine or device:

i. that does not directly dispense money, tokens, or anything of value to winning video lottery terminal players; and

ii. described in this definition that uses an electronic credit system making the deposit of bills, coins, or tokens unnecessary.

III) "Video Lottery Terminal Player" means an individual who plays a video lottery terminal in a video lottery facility.

m) Any use not specifically permitted by this ordinance shall be considered prohibited unless approval is given by the Board of Appeals where authorized in this Article.

## Article XVII. Small Cell Wireless and Telecommunications (2019-01)

### Definitions

#### A. General use of terms

- (1) The terms, phrases, words, and their derivations used in this ordinance shall have the meanings given in this chapter.
- (2) Words not defined shall be given their common and ordinary meaning.

#### B. Definitions

**ABANDONED.** Any small cell facility, wireless support structure or other utility in the Town right-of-way that ceases operation and is unused for a period of 12 months without the operator otherwise notifying the Town and receiving approval.

**ANTENNA.** Communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless service.

**APPLICANT.** Any person applying for a permit under this chapter.

**BUILDING PERMIT.** A permit issued in accordance with provisions of Section XXX.

**CO-LOCATION OR CO-LOCATE.** To install, mount or modify a small cell facility on an existing wireless support structure to which an existing small cell facility is attached at the time of application.

**DECORATIVE POLE.** A pole, arch, streetlight or structure in the Town designed for aesthetic purposes and on which no attachments have been placed except for the following:

- (1) Electric lighting;
- (2) Specifically designed informational or directional signage; and
- (3) Temporary holiday, special event or ornamental attachments.

**DESIGN GUIDELINES.** Detailed specifications, entitled "Wireless Facilities Design Guidelines," adopted by the Town for the location, design and installation of small cell facilities, wireless support structures and other utilities.

**LICENSE AGREEMENT.** A written authorization or franchise agreement from the Town allowing the installation of wireless backhaul facilities within the Town right-of-way or municipal property.

**OPERATOR.** A wireless service provider, cable operator, or a digital service provider that operates a wireless facility.

**PERMITTEE.** The owner and/or operator that have been issued a small cell permit and/or other related permits pursuant to this section.

**RIGHT-OF-WAY.** The surface of, and the space within, thru, on, across, above, or below, any public street, public road, public alley, public easement, and any other land dedicated or otherwise designated for public use, which is owned or controlled by the Town of Burkittsville.

**SMALL CELL FACILITY.** Equipment associated with a wireless facility that meets the following requirements:

**SMALL CELL PERMIT.** The nonexclusive grant of authority issued by the Town of Burkittsville to enter the Town and install a small cell facility and/or a wireless support structure in accordance with the provision of this section.

**TOWN.** The Town of Burkittsville, Maryland.

**UTILITY PERMIT.** A permit issued in accordance with provisions of Section XXX.

**UTILITY POLE.** A structure that is designed or used for the purpose of carrying lines, cables, or wires for electric or telecommunications service. "Utility pole" excludes traffic signal poles, street signs and decorative poles.

**WIRELESS BACKHAUL FACILITY.** A facility used for the transport of communications service or any other electronic communications by coaxial, fiberoptic cable, or any other wire.

**WIRELESS EQUIPMENT.** All equipment associated with the facility that is less than 28 cubic feet in volume. The equipment shall include all electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cutoff switches, and vertical cable runs for the connection of power and other services.

**WIRELESS FACILITY.** All equipment within the public right-of-way that enables wireless communications between user equipment and a communications network, including equipment such as radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. Also included is the structure to which the equipment is attached and the right-of-way area which improvements may be located.

**WIRELESS SUPPORT STRUCTURE.** A pole, such as a monopole, street light pole, traffic signal pole capable of supporting small cell facilities. "Wireless support structure" excludes:

- (1) Any pole or structure located inside the Town;
- (2) Any decorative pole as defined in this chapter; and
- (3) Any freestanding sign.

### Section 17.01 General Requirements

A. The following requirements shall apply to all small cell facilities, wireless support structures and other utilities proposed within the Town. No person shall occupy or use the right-of-way without first obtaining requisite consent of the Town. Before placing small cell facilities, wireless support structures or other related utilities in the Town, an operator must apply for and receive a small cell permit under this section, a building and/or a utility permit under Section XXX as deemed applicable by the Town. This includes co-locating small cell facilities, constructing, modifying, or replacing new wireless support structures and small cell facilities, and removing such facilities from the Town.

B. This section establishes conditions of occupancy and construction for all users of the Town, including those seeking to perform work, excavation, provision of services, or to install, construct, maintain, or repair a wireless facility including poles, utility poles, wires, equipment or fixtures of any kind by any person, including, but not limited to, public service companies, adjacent landowners, and entities that the Town may permit to place or maintain a permanent facility in the right-of-way, including, but not limited to, providers of cable services.

C. Except as otherwise provided, all permit applications governed by this section for placement, attachment, construction, reconstruction, repairs or maintenance of any facility in the Town are made to Mayor and Council.

D. Nothing in this chapter precludes the Town from applying applicable health, safety, and welfare regulations when reviewing small cell permit applications.

E. The provisions of this chapter shall not be construed to supersede any applicable federal or state law or applicable license agreement or easements, including utilities governed under Maryland Annotated Code, Public Utilities Article.

## Section 17.02 Application and Approval Process

A. The Mayor and Council is authorized and charged with administering, interpreting, and enforcing the provisions of this chapter. The Mayor and Council may grant waivers, adopt procedural rules, apply technical details as deemed necessary and will review all applicant appeals of the code interpretation.

B. To the extent required by law, this chapter is intended to treat each applicant or Town user in a competitively neutral and nondiscriminatory manner, with considerations that may be unique to the technologies, situation and legal status of each particular applicant or request for Town use.

C. A conference prior to application submission to discuss the project is recommended by the Mayor and Council to identify the correct application type and content requirements. This conference may be waived by the Mayor and Council based on prior experience with the applicant.

D. Unless otherwise required by state or federal law, the application shall be submitted to the Planning and Zoning commission with the applicable fee(s) and all required materials and information in accordance with this chapter in order for the application to be considered complete.

E. Application fee. The Town will assess an application fee for review of each permit request associated with a small cell facility and/or wireless support structure as prescribed in the Town Fee Schedule.

F. Right-of-way access fee. The Town will assess an annual fee for small wireless facilities and wireless support structures located within the Town as prescribed under the Town Fee Schedule.



### Section 17.03 Design Guidelines

- A. Guidelines with objective criteria applied in a nondiscriminatory manner that match the aesthetics and historic character of the Town are referenced in the Wireless Facilities and Design Guidelines. Each application for a small cell permit must address the standards set forth in these design guidelines.
- B. The provisions in this section shall not limit the discretion of the Town to reference and make publicly available other information, materials, forms or requirements in addition to the design guidelines.
- C. The Mayor and Council may grant a limited waiver from strict compliance if the waiver request meets the spirit of the provisions of this chapter and is necessary for provision of wireless service.
- D. A waiver may be requested in writing by submitting such requests to the Planning and Zoning Commission who shall then give the request to the Mayor and Council with a recommendation for final determination.
- E. Changes may be made to the design guidelines through resolution by the Mayor and Council.

### Section 17.04 Safety Requirements

- A. In general. An applicant must obtain all necessary licenses and permits from the Town before performance of any work in the own commences. This includes installation, modification, relocation or removal of a small cell facility, relocation or removal of an existing wireless support structure, installation of a new wireless support structure, or co-location on an existing wireless support structure in the Town. Permittees and occupants must comply with applicable standards and any permit conditions with respect to the facilities or work performed in connection with the facilities. Town permits are not transferable without Town authorization.
- B. It is the responsibility of all applicants and permittees to contact Miss Utility at 811 or (800) 257-7777 prior to any excavation.

C. Prevention of failures and accidents. An operator of a small cell facility and/or wireless support structure shall employ reasonable care to install and maintain industry standard technology for avoiding failures and accidents to prevent damage, injury, or nuisance to the public.

D. Compliance with fire safety and FCC regulations. Wireless facilities shall be installed and maintained in compliance with applicable codes and in such manner that will not interfere with the use of the Town or other property.

E. Changes in state or federal regulations. If federal, state, county or Town regulations or ordinances are amended, the owners of the small cell facility or wireless support structures shall bring any facility or structure into compliance within six months of the effective date of the new regulations or ordinances unless a different compliance schedule is mandated by the regulating agency. Failure to bring wireless facilities into compliance with any revised standards and regulations shall constitute grounds for removal by the Town at the owner's expense.

F. Indemnification. Any entity who owns or operates small cell facilities and/or wireless support structures in the Town shall indemnify, protect, defend, and hold the Town and its elected officials, officers, employees, agents, and volunteers harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees to include reasonable attorney fees and costs of defense, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury or death, property damage or other harm for which recovery of damages is sought, to the extent that it is caused by the negligence of the entity who owns or operates small cell facilities any agent, officer, director, representative, employee, affiliate, or subcontractor of the owner or operator, or their respective officers, agents, employees, directors, or representatives while installing, repairing, or maintaining such facilities.

## Section 17.05 Applications

A. Permit. An owner or operator of a wireless facility shall obtain a small cell permit before placement of any wireless facility in the Town. A building permit is required for any proposed construction, repair or replacement of wireless facilities in accordance with the Town of Burkittsville Code.

B. Application requirements. Each application for a small cell permit shall include the following information:

- (1) Detailed construction plans describing proposed installation of the small cell facility and/or wireless support structure to be deployed, including any details, images, manufacturer information and/or material specifications required by the Town.
- (2) A written description of the proposed design and installation, including applicant intent with respect to location or co-location.
- (3) In the case of a proposed attachment to an existing utility pole owned by others and located in the Town, an executed agreement or authorization from the owner of the utility pole.
- (4) In the case of a proposed attachment to a Town-owned facility, an executed agreement with the Town of Burkittsville authorizing the attachment.
- (5) If an applicant is requesting the installation of a device on private property, the written consent of the owner must be provided to the Mayor and Council for approval.
- (6) Each operator shall maintain accurate as-built maps and other appropriate records, including an inventory of its small cell facilities and wireless support structures. The inventory shall be provided to the Town in the approved format and include GIS coordinates, date of installation, type of wireless support structure, owner of wireless support structure and description, type, and owner for each small cell facility.

#### Section 17.06 Installation and Inspection.

Co-location or new wireless support structure installation for which a small cell permit is granted shall be completed within 90 days after issuance of the permit unless the Mayor and Council agree to an extension of this period. The total time to complete installation may not exceed 180 days after the issuance of the small cell permit.

#### Section 17.07 Fees

For wireless facilities, applicants must provide fees associated with all permits in accordance with the Town Fee Schedule, as amended. Full payment of all fees shall be a prerequisite to any application being deemed complete. An applicant must agree, as part of its application, to pay any reasonable additional costs incurred by the Town in reviewing the application, including costs incurred in retaining outside

consultants. The applicant will be separately billed to cover such costs. Annual rates for use of Town property, right-of-way and/or municipal infrastructure are set by resolution of the Mayor and Council as part of the Fee Schedule.

#### Section 17.08 As-built Maps and Records

A. Each operator shall maintain accurate as-built maps and other appropriate records, including an inventory of its small cell facilities and wireless support structures. The inventory shall be provided to the Town in approved format and include GIS coordinates, date of installation, type of wireless support structure, owner of wireless support structure and description, type, and owner for each small cell facility.

B. Upon Town written notification, each operator shall provide a cumulative inventory of all facilities within 30 days of request. The inventory shall include the same information for inactive as well as active installations. In addition, the date of deactivation and/or removal for any small cell facility or any wireless support structure is required.

#### Section 17.09 Liability and signal interference

A. Liability. The Town shall not be liable to the operator by reason of inconvenience or injury to the wireless facilities arising from the necessity of repair, alteration or improvement of structures or equipment within any portion of the Town.

B. Signal interference. In the event that a small cell facility interferes with the public safety radio system or the Town, county or state traffic signal system, then the operator shall cooperate with the Town to investigate the source or eliminate the interference. Cooperation may include, but shall not be limited to, temporarily switching the transmission equipment on and off for testing.

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#### Section 17.11 Requirements for Removal, Replacement, Maintenance and Repair

A. Replacement of municipal-owned wireless support structure. If an applicant applies to install a small cell facility on a Town-owned wireless support structure, the Town may require replacement or modification of the wireless support structure at operator cost if the Town determines that replacement or modification is necessary for compliance with building and safety codes. Such replacement or modification shall conform to the Wireless Facilities Design Guidelines. The Town shall retain ownership of the replacement or modified wireless support structure.

B. Removal or relocation required for Town project

1) An operator shall remove or relocate a permitted small cell facility and/or wireless support structure at the operator's sole expense to accommodate construction of a public improvement project by the Town, county, state or federal government.

2) If an operator fails to remove or relocate the small cell facility or wireless support structure or portion thereof as requested by the Town within 180 days of written notice, then the Town may remove the small cell facility or wireless support structure, or portion thereof and bill the operator for the required work.

C. Removal required by Town for safety and imminent danger. An operator shall, at its sole expense, promptly remove or relocate a small cell facility and/or wireless support structure within the time frame and in the manner required by the Town if it is determined that the removal or relocation of any part of a small cell facility or wireless support structure:

1) Is necessary to protect the public health, safety and welfare of Town residents or property; or

2) If the operator fails to obtain all applicable licenses, permits and certifications as required by law for a small cell facility or wireless support structure.

D. Removal/abandonment of facilities. An operator shall remove a small cell facility or wireless support structure within 60 days of terminating operation or within 60 days of receipt of written notice from the Town. When wireless facilities and other utilities in the own become inactive, the operator shall notify the Town, in writing, and shall file with the Town the location and description of each inactive small cell facility and/or wireless support structure. Any facility which ceases operation for 12 consecutive months shall be determined abandoned and the Town will remove the facility at the operator's sole expense.

E. Restoration. An operator shall repair any damage to the Town, any facilities located within the Town, and/or the property of any third party resulting from operator maintenance, removal or relocation activity within three calendar days following the date of damage at the operator's sole expense. The Town or property must be returned to the same condition as it existed immediately before the date the operator was granted permit for construction. This includes restoration or replacement of any damaged paving, curb, sidewalk, signage, trees, shrubs, or other vegetation. Such repair, restoration and replacement shall be subject to prior approval of the Mayor and Council.

### Section 17.12 Appeals

Any person adversely affected by a decision of the Planning and Zoning commission pursuant to this chapter may appeal that decision to the Board of Appeals, who may issue a de novo decision and whose written decision shall be the final decision of the Town. An appeal by an applicant must be taken jointly with the operator or provider who intends to use the wireless facility. All appeals must be filed within 30 days of the written decision. An extension may not be granted where an extension would result in approval of the application by operation of law. Any appeal shall be conducted so that a timely written decision may be issued in accordance with applicable law. Costs incurred by the Town associated with conducting the appeal shall be borne by the applicant.

### Section 17.13 Violations and Penalties; Fines and Billing.

A. For failure to comply with any provision of this chapter, the penalty shall be a municipal infraction payable to the Town in an amount determined through resolution by the Mayor and Council.

B. An operator shall reimburse the Town within 30 days following issuance of invoice for the removal or repair of any small cell facilities or wireless support structure, or portion thereof, as necessitated by the provisions of this chapter. The Town will assess interest of 1.5% per month beyond the thirty-day period.

## WIRELESS FACILITIES AND UTILITIES DESIGN GUIDELINES

### (5G Small Cell Aesthetic Standards for Historic Town of Burkittsville)

No small cell installation shall be constructed, erected, modified, mounted, attached, operated, or maintained within the Town on or within any public right-of-way without the issuance of a permit.

No approval granted under this section shall confer any exclusive right, privilege, license, or franchise to occupy or use the Town for delivery of telecommunications services or any other purpose.

Permit Application Content. All applications are subject to review prior to any approvals or denials of the application. The Mayor and Council may also require permit applications be reviewed by the Burkittsville Planning and Zoning Commission prior to any approvals or denials of the application. All permit applications must include:

- Site and Engineering plans for each proposed small cell installation, including associated equipment necessary for operation.
- Photographs of the proposed facility equipment.
- A visual impact analysis with photo simulations (visual simulations).
- Certification by a certified radio-frequency engineer that the small cell installation will be in compliance with the FCC standards for RF emissions as they relate to the general public, including aggregate emissions for all co-located equipment (FCC compliance affidavit).
- Documentation that demonstrates a good faith effort to locate the small cell installation in accordance with the preferred provisions of these guidelines.
- Documentation that owners of all properties within 500 feet of the proposed small cell installation have been notified in writing via certified mail of the proposed installation, including its exact location.
- Application Fee. The Town shall assess a per-installation (per facility) fee of \$150 to cover the Town's costs of processing the application.
- Consultant Fee. The town shall have the right to retain an independent technical consultant to assist the town in its review of the application. The reasonable cost of the review shall be paid by the applicant.
- Compliance Bond (performance bond requirement).

- Indemnification (indemnification requirement).
- Annual Re-Certification Fee. (Annual Co-Location Fee). The Town shall assess a \$270 fee on an annual basis for each small cell installation located within the Town's or on wireless support structures owned or operated by the Town.

In reviewing an application, the Town will consider the following:

- The location of any ground mounted small cell facilities.
- The location of a small cell facility on a wireless support structure.
- The appearance and concealment of small cell facilities to those that blend with the Town's historic environs, including materials used for arranging, screening, and landscaping.
- The design and appearance of a wireless support structure Order of Preference – Location. The order of preference for the location of small cell installations in the Town located adjacent to certain zoning districts, from most preferred to least preferred, is:
  - Road Rights-of-Way areas (accept those adjacent to municipal parks, residential areas, or the historic center of town).
  - Residential Zone (Town residential areas).
  - Parks (on rights-of-way adjacent to parks).
  - Order of Preference – Configuration of Small Cell Installations from most preferred to least preferred:
    - Co-located with existing wireless facilities – It is the Town's strong preference that whenever an applicant proposes a new wireless support structure with a small cell facility within 300 feet from an existing wireless support structure that the applicant attempt to collocate with the existing facility or demonstrate that co-location is not technically feasible or space does not exist on the existing facility or structure. Collocation is encouraged.
    - Mounted on existing utility poles – This includes existing utility poles, electric poles, telephone poles, electrical lines, telephone lines, etc.
    - Mounted on non-ornamental municipal service poles.
    - Mounted on new poles.
    - Mounted on ornamental municipal service poles – this includes ornamental streetlights.
    - Mounted on Sign Poles – This only applies to signs that are a least 15 feet in height. Small Cell Installations cannot be located upon Sign Poles less than 15 feet in height.

Consideration of Alternate Locations. The Town reserves the right to propose an alternate wireless support structure to the one proposed in an application. The Town may propose an alternate location for a new structure within 250 feet of the proposed location that is reasonable for the operator and does not impose technical limits or additional costs.



#### Restricted Locations.

- Parks or Playgrounds.
- Setback from Residential Properties of two (2) feet.
- Setback two (2) feet from the roadway face of curb, sidewalk, or shared use path as measured to the nearest part of the structure.
- Setback five (5) feet from any existing permanent object lawfully existing in the right of way.

Small Cell Facilities and wireless support structures shall be constructed and maintained in the following manner:

- The permittee must construct, install, and operate the small cell installation in strict compliance with the plans and specifications approved in the application.
- Using the smallest and least intrusive means available to provide wireless services.
- Using matching materials that are consistent with the materials and finish of the adjacent poles.
- Where feasible, as new technology becomes available, the permittee shall replace larger, more visually intrusive facilities with smaller, less visually intrusive facilities, after receiving necessary permits and approval required by the Town.

Underground Equipment Vaults. Equipment in an environmentally controlled underground vault may be required in some areas where technologically feasible and appropriate for the location.

Ground Mounted Equipment. Ground mounted equipment should be minimal and should be as discreet as possible. It should be placed according to the following:

- Minimize obstructions to the usual travel or public safety of a right-of-way.
- Maximize the line of sight required to add to safe vehicular and pedestrian traffic.
- Maximize the line of site at street corners and intersections.
- The Town reserves the right to deny a request that will negatively impact vehicular and/or pedestrian safety.
- The ground mounted equipment cabinet must contain all the equipment associated with the facility other than the antenna. All cables and conduits must be concealed from view and undergrounded between the pole and the ground mounted cabinet.
- Ground mounted equipment must be designed with concealment elements that allow it to blend in with the surrounding historic aesthetics of the Town.

Pole Mounted Equipment. All pole mounted equipment must be installed as flush as possible to the pole and as unobtrusive as possible. It should comply with the following requirements:

- All equipment other than the antenna(s), electric meter and disconnect switch must be concealed within an equipment cage.
- Equipment cabinets must be non-reflective and colored to match the existing pole.

General Guidelines on Placement. Small Cell Facilities and wireless support structures shall be constructed and maintained in a manner that does not obstruct or hinder the usual travel or public safety in the Town or right of way, including:

- All new small cell facilities shall be placed in line with other utility features and in a location that minimizes any obstruction, impediment or hindrance to the usual travel or public safety.
- Obstruct the legal use of a right of way by other utility providers.
- Violate nondiscriminatory applicable codes.
- Violate or conflict with the enacted guidance or this set of guidelines.
- Violate the federal Americans with Disabilities Act - ADA. All new small cell facilities must be compliant with the Americans with Disabilities Act and its requirements.
- Ambient noise suppression measures are required when considering the placement of equipment in locations likely to impact adjacent residences or businesses.
- The Town strongly discourages more than one (1) new wireless support structure per block and will not approve more than one per 300 feet on each side of the street to minimize hazard of poles adjacent to roadways and minimize visual clutter and distractions to vehicular traffic.
- A minimum of 300 linear feet between small cell facilities or wireless support structures is required.
- The Town encourages the centerline of any new wireless support structure to be aligned with the centerlines of existing poles or street trees on the same street segment, but only if the new structure's height does not conflict with overhead power utility lines and facilities.

General Guidelines on Design. The following guidelines must be described and adhered to in the application to be considered complete:

- Small Cell facilities shall be installed at least 8 feet above ground (or whatever is reasonable as to not obstruct regular movement within the Town or right of way).
- Those projecting towards the street must be installed at least 16 feet above the ground to protect the public and vehicular traffic.

- New wireless support structures must be no more than 5 feet taller than maximum allowable height for building construction in the Town, and specifically within the adjacent zoning district to the structure.
- New wireless support structures shall be built at a height that is consistent with the closest existing municipal or utility poles adjacent to the location of the new structure.
- All antenna(s) should ideally be installed at the top of the wireless support structure and aligned with the centerline of the support structure.
- Antenna(s) shall be located entirely within an enclosure of not more than 6 cubic feet in volume.
- Antennas should be cylindrical in shape and their color should match the color specifications for the wireless support structure.
- For existing wireless support structures, the antenna and any associated shroud or concealment material are permitted to be collocated at the top of the existing wireless support structure and shall not increase the height of the existing support structure by more than 5 feet.
- No protrusions from the circumference of the existing structure shall be more than two (2) feet.
- Excess cables shall not be spooled, coiled, or otherwise stored on the pole except within the approved enclosure such as a cage or cabinet.
- Above ground conduit shall be encased within the smallest section or smallest diameter PVC channel and be colored to match the structure.
- New small cell facilities and wireless support structures shall not be illuminated, except in accordance with applicable federal or state regulations or unless the illumination is integral to concealment/camouflaging. Other than aforementioned, external lighting associated with small cell facilities is prohibited.
- Passive cooling systems should be used adjacent to residential areas. When fans are used, cooling fans must have a low noise profile.
- As stated previously, equipment enclosures are required and should match the color specification of the wireless support structure.
- For ground mounted small cell facilities, all small cell wireless equipment associated with the facility shall not cumulatively exceed twenty-eight (28) cubic feet in volume.

General Guidelines on Concealment. It is the Town's preference that all new wireless support structures be camouflaged as outlined below:

- The applicant shall submit their proposal for camouflage with the permit application.
- Ground mounted equipment shall incorporate concealment elements into the proposed design.
- Concealment can include landscaping, strategic placement in less obtrusive locations, or placement within existing or replacement street furniture.

- Landscaping shall be provided and maintained around ground mounted equipment enclosures with the goal to achieve 100% screening within three years of installation.
- Underground vaults shall be located to minimize disruption to the placement of street trees.
- All colors shall match the background of any wireless support structure that the facilities are located upon. Colors should be consistent with the color of other poles in the immediate vicinity.
- Operator must get written permission from the Town before trimming trees in the right of way hanging over its small cell facility and/or wireless support structure.

Structural Integrity. Single or co-located small cell installations must be mounted on an existing structure such as a utility or lighting pole that can support its weight and the weight of any existing co-located equipment. All new wires needed to service the small cell installation must be located within the width of the existing structure to not exceed diameter and height of the existing utility pole. Installations on all Town owned poles shall have a load analysis completed and signed by a professional engineer licensed and registered by the state of Maryland. The Town will not authorize attachments to town-owned infrastructure that negatively impacts the structural integrity of that support structure.

Reservation of space for future public safety or transportation uses. Applications for space on Town owned or operated wireless support structures cannot conflict with space reserved for future public safety or transportation uses documented in an approved plan in place at the time of the application.

Signage. Operator shall post its name, location, and emergency telephone number in an area on the cabinet of the small cell facility, visible to the public, in a space that shall not exceed 4" by 6". Other logos or decals may only be used to display information required by a federal, state regulations.

Requirement to Comply. The Placement, modification, operation, relocation, and removal of a small cell facility and/or wireless support structure shall comply with the enacted ordinance and these guidelines at the time the permit for installation, modification, relocation, or removal is approved and as amended from time to time.

Waiver of Guidelines. In the event that compliance with any provision in the small cell guidelines as applied to a specific proposed small cell facility would prohibit the provision of personal wireless services, the Town may grant a limited, one-time exemption from strict compliance to the guidelines. The Town shall process waivers in a reasonable and nondiscriminatory manner that does not have the effect of prohibiting the provision of wireless service.

